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ROYAL COMMISSION OF INQUIRY INTO CERTAIN
DEATHS AT THE HOSPITAL FOR SICK CHILDREN AND
RELATED MATTERS.

Hearing held
8th floor
180 Dundas Street West
Toronto, Ontario

The Honourable Mr. Justice S.G.M. Grange

Commissioner

P.S.A. Lamek, Q.C.

Counsel

E.A. Cronk

Associate Counsel

Thomas Millar

Administrator

Transcript of evidence
for

10 May 1984

VOLUME 144

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ROYAL COMMISSION OF INQUIRY INTO CERTAIN
DEATHS AT THE HOSPITAL FOR SICK CHILDREN
AND RELATED MATTERS.

Hearing held on the 8th Floor,
180 Dundas Street West, Toronto,
Ontario, on Thursday, the 10th
day of May, 1984.

- - - -

THE HONOURABLE MR. JUSTICE S.G.M. GRANGE - Commissioner
THOMAS MILLAR - Administrator
MURRAY R. ELLIOT - Registrar

- - - -

APPEARANCES:

P.S.A. LAMEK, Q.C.		Commission Counsel
D. HUNT)	Counsel for the Attorney
L. CECCHETTO)	General and Solicitor
		General of Ontario (Crown
		Attorneys and Coroner's
		Office.
I.J. ROLAND)	Counsel for The Hospital
M. THOMSON)	for Sick Children
R. BATTY)	
D. YOUNG		Counsel for The
		Metropolitan Toronto
		Police
W. N. ORTVED)	Counsel for numerous
K. CHOWN)	Doctors at The Hospital
		for Sick Children
E. McINTYRE		Counsel for the Registered
		Nurses' Association of
		Ontario and 35 Registered
		nurses at The Hospital
		for Sick Children
D. BROWN		Counsel for Susan Nelles -
		Nurse

(Cont'd)



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APPEARANCES Continued

P. RAE

Counsel for Phyllis
Trayner - Nurse.

J. A. OLAH

Counsel for Sui Scott
Nurse

S. LABOW

Counsel for Mr. & Mrs.
Gosselin, Mr. & Mrs.
Gionas, Mr. & Mrs. Inwood,
Mr. & Mrs. Turner, Mr. &
Mrs. Lutes, and Mr. & Mrs.
Murphy (parents of deceased
children)

F.J. SHANAHAN

Counsel for Mr. & Mrs.
Dominic Lombardo (parents
of deceased child Stephanie
Lombardo); and Heather
Dawson (mother of deceased
child Amber Dawson)

W.W.TOBIAS

Counsel for Mr. & Mrs.
Hines (parents of deceased
child Jordan Hines)

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A/DM/LN

1

---(Upon commencing at 10:35 a.m.)

THE COMMISSIONER: I promised Ms. Rae that we would not discuss the matter brought up by Mr. Hunt in chambers, today, but I do want to find out where we stand on this one and I want to set a date for argument on Phase I today, if we can.

We won't do that until after we finish the evidence of Dr. Bunt. Is he here?

MR. HUNT: Yes, he is here.

Before Mr. Shanahan or my friends comment; Dr. Bunt referred to two certificates in his evidence the other day and I handed it out to everyone in advance of his evidence but I neglected to enter them as Exhibits. Perhaps I can do that now. One is a Warrant for Post Mortem Examination dated July 28th, 1980, signed by Dr. Bunt directing the post mortem examination to be made on the body of Amber Dawson. The second is a Medical Certificate of Death in relation to Amber Dawson and signed by Dr. Bunt and dated October 27th, 1980.

Perhaps we can have the Post Mortem Examination marked as the first one, and the Medical Certificate the next.

THE COMMISSIONER: Yes, 413 for the Warrant; and 414 for the Certificate.



A2

---Exhibit No: 413 Warrant for Post Mortem
Examination dated July 28th
1980, signed by Dr. Bunt.

---Exhibit No. 414: Medical Certificate of Death
October 27th, 1980, signed by
Dr. Bunt.

THE COMMISSIONER: Yes. Have you
finished your examination, Mr. Hunt?

MR. HUNT: Yes.

THE COMMISSIONER: Mr. Lamek.

MR. LAMEK: Mr. Commissioner, Mr.
Shanahan has asked if he might go first as his client
is obviously the most closely involved with this
evidence and I have no objection to that.

THE COMMISSIONER: Yes, all right.
Mr. Shanahan.

DOCTOR DONALD BUNT, RESUMED

CROSS-EXAMINATION BY MR. SHANAHAN:

Q. Good morning Doctor, my name is
Shanahan and as you probably know I act on behalf
of Heather Dawson the mother of Amber Dawson.

Doctor, at the outset I think Mr.
Hunt put to you really the parameters of this. When
you look back at it, and when you look back at the
suggestion made by Mrs. Dawson with respect to the
first account that she gave to you, you would agree
really that the implications of her evidence if



1
2 accepted at face value are really quite devastating
3 in terms of this Commission?

A3 4 A. Yes.

5 Q. And would you agree too as well
6 sir, that having had the opportunity to review her
7 evidence as you advised us you did, that in fact it
8 does come down on some crucial issues to each
9 individual's recollection of those events?

10 A. Yes.

11 Q. Would you agree, sir, that in
12 trying to assess that, it struck me that there was
13 a number of areas first of all that both you and Mrs.
14 Dawson obviously agreed upon?

15 A. Yes.

16 Q. I can outline them for you.
17 You certainly agreed that you were contacted by her
18 as early as the 28th, the very day on which the child
19 had died?

20 A. Yes.

21 Q. You both agreed on the time and
22 the place of that first meeting?

23 A. Yes.

24 Q. You both agreed that there was
25 another subsequent telephone conversation some three
to four days later when the preliminary autopsy



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results were known?

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A. Yes.

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Q. You both agreed that there was a final contact, or final meeting sometime in November, at which time the full autopsy report itself was discussed and reviewed?

7

A. Yes.

8

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Q. You both agreed that there was a final telephone call shortly after the arrest of [redacted] Miles, between you and Mrs. Dawson?

10

11

A. Yes.

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Q. In terms, sir, of the actual contents of these meetings you both agreed as well that on the first meeting two topics came up, however, they were resolved and what have you, that two topics came up and predominated. One was her concern about the pathologist who might do this autopsy. The second was in a broad sense a medication problem, or the issue of medication; would you agree that even in terms of the topics that came up at that first July 28th meeting you both agreed in that regard?

21

A. There were other issues.

22

23

Q. But in terms of those two coming up

24

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3 A. Those two did, not primary
4 concerns I don't believe.

5 Q. You wouldn't call Mrs. Dawson's
6 concern about the Hospital and the pathologist and
7 the Hospital that he might be in; and her concerns
8 about the problems of medication, whether she went so
9 far as to mention digoxin or not, we will not to deal
10 with that at the moment

11 A. Yes, but there was another
12 primary concern.

13 Q. What was that, sir.

14 A. The cause of death.

15 Q. The cause of death, I am sorry.
16 You will agree then that those three topics as she
17 set them out and you set out, you both agreed in that
18 regard as well?

19 A. Yes.

20 Q. In fact, sir, as I look it over
21 the only area where there was substantial disagreement
22 really between you and Mrs. Dawson was really the
23 area of the timing, or how the issue of the outside
24 pathologist was resolved; and secondarily, whether
25 in fact of terms of the medication discussion Mrs.
Dawson went so far as to actually at that first
meeting in July bring up about digoxin specifically?



A6 1
2
3 A. Yes. When you pause you are
4 looking for an answer from me I presume?

5 Q. Yes. As well as that, Doctor,
6 I suggest now in those areas that you disagree on
7 ~~the contents of~~ there are no notes made by any party?

8 A. Correct.

9 Q. And certainly you have indicated
10 that you had notes in which you outlined the
11 times of receiving your earlier telephone calls and
12 instructions, and you set out those times; but with
13 respect to the contents and the subjects of what
14 was discussed at these meeting she didn't record
15 them and you didn't record them either?

16 A. That's correct.

17 Q. So it would strike me here
18 that it would really seem to be incumbent upon you
19 in your role there as an arm of the Coroner's office
20 placing the value that you said to Mr. Hunt that
21 you would upon a complaint, if you like, being
22 received from a relative and that relative enjoying
23 that special position of being the child's mother.
24 It would seem to me, sir, that it would be at least
25 as important to have notes not just recording the
times of earlier telephone conversations, but notes
setting out two, as I saw it, or three as



1
2 saw it, topics of discussion that were reviewed there.

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3 Would it not have been, in retrospect, sir,
4 valuable to this Commission and really a proper
5 practice for you to have made notes of that
6 discussion with Mrs. Dawson?

7 A. That is a difficult question
8 for me to answer. In retrospect, yes.

9 Q. In terms of you and Mrs. Dawson
10 remembering this event, sir, I think you advised
11 me that the total amount of investigations
12 over the 22 years that you have been involved with
13 was something in the area of 8400?

14 A. That's correct.

15 Q. It worked out to somewhere around
16 400 a year, and it really works out to something
17 even greater than 1 a day, an awful lot of investigations
18 am I right?

19 A. Yes.

20 Q. Looking back and this lady coming
21 in to you on July 28th, as we know, sir, perhaps
22 third baby into this series of deaths, there was
23 nothing in the air at that time that would in any
24 suggest there was something going on at the Hospital
25 for Sick Children at all?



A8

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3 A. Yes.

4 THE COMMISSIONER: Yes, there is a
5 problem in answering that question. Do you mean there
6 was nothing in the air?

7 THE WITNESS: I am agreeing with
8 counsel that there was nothing in the air, yes.

9 Q. I suggest to you, sir, that
10 there was nothing as well in this discussion with Mrs.
11 Dawson that distinguishes it perhaps from the many
12 other discussions you had with people, doctors and
13 individuals in the Coroner's office and perhaps
14 family members that come to you when in fact you are
15 about the embark upon an investigation?

16 A. That's true.

17 Q. Nothing in particular fixes it
18 in your mind but you will agree with me that from
19 Mrs. Dawson's point of view arriving at your office
20 on the very day of her child's death and discussing
21 with you the death of her only child, you would agree
22 that would have a certain value in crystallizing
23 or fixing her recollection of events?

24 A. I think it might do other things
25 too.

26 Q. But you will agree for her it
27 was a once and once only proposition visiting the



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Bunt, cr. ex.
(Shanahan)

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Coroner's office and reviewing that day the circumstances
surrounding Amber Dawson's death?

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A9

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A. I would agree with that.

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Q. Sir, you indicated that there were certain features as you look back however that really did or should have heightened your concern here; one was the unusual manner of the referral itself, rather than the clerk, it appeared to me, simply assigning the case at random that there had been some input from a more senior official to have the case specifically assigned to you?

A. I'm not quite sure what you are getting at there. If you mean it was important to me, yes.

Q. Mr. Hunt asked you at page 2879 of that days evidence:

" Q. So at the outset was there any thing unusual about the manner in which this request came to you that you were aware of and mindful of at that point?

A. Yes. It had come, although through the clerk, from a senior member of the Coroner's Office. I understood that I had been asked specifically to accept the case and that put a serious complexion on it, somewhat more serious than I would possibly expect



1
2 initially with an ordinary case that
3 would come through the Coroners Office
4 from a Clerk".

5 That's correct.

6 You accept that?

7 Yes.

8 Q. All right. Really then there
9 were two features there. There was not only
10 the unusual manner that was referred to but in addition
11 you said that the input of the relative, to the
12 extent that had occurred here, the mother, the mother
13 being as you realized the impetus for the coroner
14 being involved and the mother attending there is your
15 office to instruct you that day, you said that it
16 was unusual, it was not common?

17 A. That's correct.

18 Q. All right. And the net
19 effect of those two aspects was that you said that
20 it in fact gave the whole thing a serious complexion
21 to you?

22 A. It did.

23 Q. All right. You said Doctor
24 that Mrs. Dawson reviewed the background of Amber
25 Dawson's life, expressed to you that it was an unexpected
death from her point of view that occurred early in



1
2 the morning and that she felt her child should not
3 have died?

4
5 Yes.

6 All right. I would suggest
7 to you as well Doctor that it became apparent in
8 reviewing the course of Amber's life that this lady
9 in fact had a considerable familiarity with digoxin,
10 the drug itself, and its use?

11 No, I don't believe that
12 was an issue at all, or a point of discussion.

13 You would agree sir that
14 really one would hardly review the course of Amber's
15 life, her stays in the Hospital, her surgery, her
16 course of treatment without the mother having at
17 least having mentioned in passing to you that the
18 child was on digoxin, the chief drug that she was on?

19 A. I don't believe that at all.

20 Q. All right. You would agree
21 though that in reading her evidence the other day
22 that Mrs. Dawson was really quite consistent in what
23 she expressed to this Commission, that in fact she
24 had given the doses of digoxin twice per day for all
25 of the child's life?

26 A. I don't believe that was
27 present to me at the time when Mrs. Dawson and I spoke



1
2 at all.

3 Q. But you will agree that is
4 the evidence that she gave here the other day?

5 MR. HUNT: If we are going to get into
6 Mrs. Dawson's evidence I think we should have the
7 passages referred to.

8 MR. SHANAHAN: I thought he said he
9 read it?

10 THE WITNESS: I did read it, Mr.
11 Shanahan, but I was not here to hear it.

12 MR. HUNT: He did read it, but this
13 is now Thursday morning.

14 MR. SHANAHAN: Q: And did you read,
15 sir, where she said that on December 25th, Christmas
16 day of 1979, that she had accidentally given an
17 overdose of digoxin to her child which caused the
18 child to go into heart failure and be hospitalized?

19 A. If it is in the record, I
20 read it.

21 Q. You would agree sir that for
22 a mother that certainly would be a distressing enough
23 event that she would in her own mind be acutely aware
24 of the lethal nature of the drug digoxin?

25 A. I realized that at this time.

Q. Yes.



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A. Now, yes.

3

Q. Yes.

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In the context that you are
telling it

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All right. But you would
agree there sir that if she as an individual, as a
lay person, had in fact had that incident occur to her
it certainly would serve to fix in her mind the
dangerous nature of the drug that was involved in her
child's treatment?

10

11

You are asking my opinion
about what Mrs. Dawson thought and I'm sorry, I cannot
respond to that question.

12

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14

Q. Mrs. Dawson brings up to
you, sir, the aspect of an outside pathologist. In
fact, you say that you enter into a discussion with
her, and I take it advised her of your feeling that
in fact the best pathologist available in terms of
a pediatric autopsy would be available at the Sick
Children's Hospital?

19

20

A. That is correct.

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Q. All right. Really, Sir, in
fairness that issue in itself would not raise your
suspicions. It would seem to me sir that it would
be the reason for that request, the reason behind that



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2 request more than anything that would have raised
3 your suspicions, the fact that a mother was asking
4 you to have someone outside the Hospital do this
5 autopsy, it was suggested to you that in fact the
6 mother's concerns were that she felt that something
7 that happened internally in the Hospital was
8 really the cause of her child's death?

9 A. Yes, I would agree with that.

10 Q. All right. And she was
11 certainly not so overwhelmed by grief that she
12 wouldn't see the logic, sir, if we accept your version
13 of events, that she could see the logic of perhaps
14 having a pathologist at the Sick Children's Hospital
15 do it so she could get the best information?

16 A. Yes.

17 Q. And then, sir, she brings
18 up the topic, as you put it --

19 MR. HUNT: Before my friend moves on, could
20 I just point something out. My friend has lead a series
21 of questions to the Doctor suggesting that in the
22 discussion with him Mrs. Dawson could hardly have had
23 a discussion about the history of Amber Dawson without
24 referring to the fact that she was well acquainted
25 with digoxin and had administered it to the baby and
knew how lethal it was. Now, her own evidence at



1
2 page 2502 in Volume 141 --

3 THE COMMISSIONER: Yes, just a second.
4 Go ahead.

5 MR. HUNT: Well, it is only about
6 four lines of my own evidence at that page, 2502,
7 line 12 on.

8 THE COMMISSIONER: Could you wait
9 just a second, I want to look up my own notes on it.

10 MR. HUNT: At that point, Mr. Commissioner
11 she said, and this is in quotes:

12 A. 'I don't want to find out my
13 child died of an overdose of digoxin.'

14 Q. And would you have mentioned it
15 on more than on occasion in that
16 meeting?

17 A. No, I told him of my suspicion.
18 I did not mention the word, 'digoxin'
19 more than that one time."

20 THE COMMISSIONER: But she said it at
21 a later point of course I think that she distinctly
22 remembered having used that.

23 MR. HUNT: She distinctly remembered
24 this phrase, " 'I don't want to find out my child
25 died of an overdose of digoxin.'" That is her
recollection.



1
2 THE COMMISSIONER: Yes.

3 MR. HUNT: She goes on to say, "I did
4 not mention the word, 'digoxin' more than that one
5 time."

6 Now, my friend has lead a serious
7 of questions here with the suggestion that this
8 lady could have had a discussion with him
9 about the child's history without some complete
10 discussion of the child's history insofar as digoxin
11 is concerned. Her own evidence suggests that even
12 she doesn't recall that.

13 Now, this is why I object to the putting
14 of recollections of the witnesses to this Doctor.
15 If it is going to be done again I would suggest we
16 have the transcript used and the portions my friend
17 is concerned with read, because this is a very
18 different recollection than the witness has of what
19 the conversation involved and the one my friend is
20 suggesting and I don't think that is appropriate.

21 THE COMMISSIONER: Well, I don't know,
22 Mr. Shanahan.

23 MR. SHANAHAN: Q: Well, Doctor, if
24 you didn't hear it then, when you subsequently went
25 to the Hospital and looked over Amber Dawson's chart
you certainly had all the records before you that we



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now have before this Commission.

3

A. Yes, I did.

4

Q. All right.

5

A. Excuse me, I had Amber

6

Dawson's chart, possibly not all the records that
you have. I don't know what you have before the
Commission.

8

Q. All right.

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A. I had Amber Dawson's chart.

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Q Did you know then from that chart whether you gained it from the mother or not? Did you know from that chart that in fact Amber Dawson had a number of operations and stays at the Hospital and, in fact, she had largely been on digoxin all her life?

A Yes.

Q All right. You knew by inference, in fact she was under digoxin when she was at home, by inference, the mother was giving her that digoxin?

A Yes.

Q All right.

A Or someone was giving it to her, yes.

Q But she was at home?

A She was at home, yes.

Q And ex post facto then you must have learned very quickly later that day, if we accept your version that Mrs. Dawson didn't mention it in the meeting, you must have, and if you were leaving that meeting with this aspect, well, let me go over to the Hospital here and see what medication this child might have been on, you very quickly would have learned that she had been on



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digoxin for some months?

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A. Correct.

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Q. In fact, it had been the primary drug, the primary heart drug that she had been on most of her life?

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A. That's right.

8

9

Q. All right. So whether she said it or not to you it really very quickly became apparent some hours later that very day?

10

A. Yes.

11

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Q. All right. You said that one of your concerns about the logic that you put to her about using a pathologist from The Sick Children's Hospital was, one, it was the best available information to her and you said, as well, at page 2885 of that transcript, that it was done because it was an important thing to Mrs. Dawson?

17

A. Yes.

18

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Q. All right. In fact, there were two important things to look and to check about a pathologist who might be used and, secondarily, to check the aspect, as you have put it, of incorrect medication.

22

A. And the third point which --

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Q. I am sorry, I am not trying to --

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A. That you do not add is to determine a cause of death. That is why I wanted the best pathologist available.

Q. All right. And to determine a cause of death. Certainly, though, sir, when you say it was an important thing to Mrs. Dawson about the pathologist, both you and she at least agree, under the general heading, that the issue of medication, incorrect medication --

MR. HUNT: I'm sorry, the words the doctor used was "wrong medicine" was the phrase raised --

THE COMMISSIONER: It sounds somewhat the same to me.

MR. HUNT: It may be the same in one sense, but wrong medicine may not connote to the doctor any suggestion of the wrong dose of the property of prescribed medicine.

MR. SHANAHAN: I used the expression incorrect medication I thought. On page 2884, the doctor's answer to Mr. Hunt was, the question being:

"Were you able to say, or did she indicate to you any desire on her part that the investigation into the death of her baby be carried out with



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"some ultimate benefit to other
children in mind?

"A. Yes, she did. She felt that she
could not do anything for Amber
actually at this time, but she felt
that Amber should not have died and
she expressed to me the wish to help
other children, or to see that if
her daughter had died as a result of
incorrect medication....".

MR. HUNT: Would my friend go back to
page 2883 where the doctor first raised what was said,
to put that comment in the proper context. At line
9 the question:

"Q. Did she express to you any
feelings that she herself and whether
they were based on fact or not, as
to the cause of death of the child?

"A. She expressed to me her concern
that Amber may have received the wrong
medicine."

And after that the doctor referred to any other
way, and my submission is in the context of that.

MR. SHANAHAN: He says wrong medicine
and on 2884:



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"As a result of incorrect medication,
wrong medication that that should not
happen again."

If you think I misquoted that, but those three
"wrong medicine, incorrect medication, wrong
medication", that was a general complaint there, was
it?

THE COMMISSIONER: I suppose really,
Doctor, it is not a question so much of what you said,
but what you remember. If you can remember what
did you say?

THE WITNESS: I remember wrong
medication as being the issue.

MR. SHANAHAN: Q. All right. And,
Sir, to get back to my point here it would seem
to me that all three had, as you put them, because
of death, the concern about the pathologist and
the wrong medication were equally important and,
Sir, just as important as you being able to convince
her that a pathologist just inside the Sick
Children's would be completely objective, it would
be equally just as important that you, either
personally or through him, also get the best
available evidence with respect to the medication
problem that she may have been addressing. That



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would be part of your function?

A. You used the term equal concern
I believe.

Q. Yes.

A. I'm not certain that equal
concern was the correct way of putting it. I was
looking for a cause of death and I believe
Mrs. Dawson was looking for a cause of death.

Q. All right, Sir. You will agree
that the cause of death and medication were clearly
in the conversation, to defy logic and say that she
wasn't relating one to the other.

A. Yes.

Q. All right.

A. Wrong medication was one
dimension of cause of death.

Q. Was one?

A. Dimension of cause of death.

Q. All right.

A. To be considered by me.

Q. She certainly wasn't telling
you how to do your job, but one thing she was
bringing up to you was to assist you was that she
thought that wrong medication or wrong medicine
was an issue here.



C.7

RD/tg

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A. One of the issues, yes.

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Q. One of the issues. She passed

4

that on to you?

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A. Yes.

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Q. As you say it was coming from

a mother?

7

A. Yes.

8

Q. Coming from a relative, it was

9

unusual and it is something that you would have or
should have given special heed to.

10

11

A. And did.

12

Q. And did. We will get to that.

13

As you say Doctor, as well as that you are familiar
with how to implement the procedure to have that

14

tested, because there is, in fact, on the Coroner's

15

warrant a special area set aside for special

16

examinations, to use the phraseology, where you could

17

put in there instructions that you require.

18

A. Correct.

19

Q. In fact, you were familiar with

20

it and I think you said to Mr. Hunt that you had

21

done it and used it in the past. It would have been

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nothing for you to put in there, in fact, tests for

drug A, B and C.

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A. Yes.

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C.8

RD7tg

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Q. All right. You said that one of your concerns was that there was a huge compendium of drugs, perhaps drugs running into the thousands and you didn't say this, but I gather that really in terms of efficiency or cost or whatever considerations, it really -- you needed a drug to focus in on.

A. I needed something to focus on,

Q. All right. Surely, Sir, it was incumbent upon you, if we accept your evidence that Mrs. Dawson was, in fact, naming specific medications, surely it was incumbent upon you in your role here as the Coroner acting on behalf of the Coroner's Office, that if there was any doubt in your mind that A you didn't know where to head or B the general field she was giving you was just too broad for you to do a screen on, surely it was incumbent upon you to put to Mrs. Dawson here: "Ma'am, you are really giving me an impossible task. Do you have anything in mind that you think your daughter may have got too much of or the wrong thing of."

A. This was before I had reviewed anything. This was before I had commenced an investigation, my discussion with Mrs. Dawson.



C.9

RD/tg

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Q. I appreciate that. What I am saying to you, Sir, is that she, having brought up that topic, she looking for cause of death and certainly talking about medication in relation to cause of death, you knowing from your experience 8400 cases that we can't do a drug screen on every drug they have in the Hospital for Sick Children, where is this lady coming from, surely it was incumbent upon you to address that issue right there with her if you were in any doubt.

A. If I was in any doubt of what?

Q. What drug she might be alluding to or if you thought your task was just simply impossible, as framed.

A. No, I don't think it was impossible as framed. I had a planned course of action which I followed.

Q. So you don't feel, in retrospect, Sir, that it would have been, given the limitations that you knew about screening, and the amount of drugs that were **there at** the Hospital for Sick Children, you might then in the course of that conversation, ask this lady who was talking about medication, ask her, what, in fact, she might have in mind.



C.10

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RD/tg

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A. I don't believe the matter of the wrong medication was a long discussion item in my communications with Mrs. Dawson, prior to my attendance at Sick Childrens Hospital.

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Q. You don't believe that wrong medication was -- sorry?

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A. An issue of lengthy discussion with Mrs. Dawson prior to my attendance at Sick Childrens Hospital. I had a discussion with her of some 45 minutes and I don't think that wrong medication was a lengthy issue in that discussion or absorbed any length of time in that discussion.

13

14

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Q. Well certainly ---

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A. Either on her part or my part.

Q. Certainly if you didn't follow up on that comment or in whatever way it was broached about wrong medication, it certainly wouldn't have been very wrong. I am suggesting to you that you are so experienced of 22 years, 8400 investigations, that you would be so concerned by the fact that this relative was coming to you and the case was highlighted by the manner of referral, that a lady obviously suspicious, that she was asking for an outside Pathologist and she obviously had.



C.11

RD/tg

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something on her mind about the cause of death
being wrong medication. I'm suggesting to you,
if struck me, that indeed you would have asked
this lady, and I am suggesting to you that she
would have responded that Digoxin was a primary
consideration.

.....



D/DM/LN
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2 A. There is a lot in that question
3 and I cannot answer it yes or no, you will have to
4 break the question down if you want me to answer it.

5 Q. If I want an answer I will have
6 to make it short. I am suggesting to you --

7 A. No, you don't have to make it
8 short. You have to explain to me in some - with
9 some words and not give me please four or five
10 questions in one question and expect me to give you
11 an answer.

12 Q. All right. Let me try again.
13 I am suggesting to you, sir, that this lady that
14 was so concerned about cause of death, and that
15 the jury obviously had suggested to you that she
16 had strong medication might be involved?

17 A. That was one dimension of a
18 discussion.

19 Q. I accept that.

20 A. Which did not include -- which
21 was not -- the issue of wrong medication did not take
22 up much time in this discussion.

23 Q. So we are on common ground --

24 A. Mrs. Dawson was given as much
25 time as she wished in her discussions with me. The
major point of discussion was the cause of death,



D2

1
2 the issue of where the autopsy would be done.

3 Q. The common ground is that it was,
4 your words, one dimension of the conversation.

5 A. The issue of wrong medication
6 was part of the issue of cause of death; she
7 knew how her child died.

8 Q. She was offering to you there
9 her opinion for what it was worth, that in
10 fact she thought, to accept your version of these
11 facts and your recollection, that in fact she thought
12 wrong medication?

13 A. That was one dimension of it, yes.

14 Q. So we are on common ground there
15 about the aspect of wrong medication and perhaps the
16 issue of death was raised.

17 A. We are on common ground about the
18 issue. I don't believe we are on common ground
19 about the emphasis and the duration and the import
20 of the term "wrong medication".

21 Q. I certainly haven't put anything
22 about duration.

23 A. No, but you are emphasizing -

24 Q. Just let me ask the questions
25 here. You have certainly put that the input of a
relative, of a mother's concern was important. So



D3

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I am just tying that into what you have said when the mother would say, in my feeling the cause of death it could perhaps be the wrong medication, that as you put it, set off some bells in

A. Yes, I agree entirely with what you are saying but I don't want to mislead the Commission by suggesting that this was the major point of discussion that Mrs. Dawson and I had during 15 minutes, and it was one issue. I appreciate Mr. Shanahan what you are trying to accomplish here, but I don't want to mislead the Commission that this was the focus of our discussion.

Q. And I don't want you to mislead the Commission either, sir. All I am saying sir when you say it wasn't made a major issue, and that is my next question to you. It would seem coming into that longer question some minutes ago, that of 8400 investigations and with 22 years behind you, and given the manner it was referred to you and her specific concerns, that really it was incumbent upon you to make that a major issue and to say to this lady, what medication do you have in mind ma'am.



D4

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2 A. Again you are looking for a

3
4 Q. I am. I am saying it was
5 ~~upon~~ upon you to ask that question.

6 A. You are expressing --

7 THE COMMISSIONER: No, I think
8 ~~that~~ that statement is, do you agree?

9 A. I agree to some degree, but I
10 ~~find it difficult~~ difficult to answer that degree with a yes

11 Q. I won't labour it too much longer
12 ~~you~~ you certainly had way more experience than
13 ~~me~~ me and secondarily, you knew uniquely
14 ~~the~~ the problems with drug screening when you didn't have
15 a particular focus.

16 A. That's correct.

17 Q. So as between the two parties

18 ~~and the~~ footing that they stood on, really you
19 ~~certainly~~ certainly sir, were in a position where you knew
20 problems were faced if you left that issue of wrong
21 medication just as she stated it and framed it, do
22 you agree you knew the problems you would have had
23 to face.

24 A. At that point in time I knew
25 that that was a broad statement and it presented me



D5 1
2 with a broad problem I did, yes, which I planned to
3 address and did address when I attended at Sick
4 Children's Hospital.

5 Q. You said, sir, at some point
6 when the Commission indicated yesterday
7 and I have the page and reference, let me know if
8 it. The Commissioner suggested to you
9 about when the issue of drugs as a cause of death
10 raised its head here. That for instance you said in
11 suicide cases what you do is you don't really know
12 what you are looking for but you may have got the
13 suggestion that drugs may have played a part and you
14 start to search around for clues. This is on page 2905
15 of the evidence. You said you search around for
16 clues and that sometimes you go so far as to look in
17 garbage pails to see if you can find something there
18 which might assist you in ascertaining if drugs
19 played a part in the death, and if so, what kind of
20 drugs, it sort of limits the field that you have to
21 deal with.

22 I want to ask you a question about
23 that. First of all there is no suggestion whatsoever
24 in terms of the sort of task you faced here with
25 Amber Dawson that the death of a child in 4A infant
cardiology, Hospital for Sick Children, there is no



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question there, sir, that we were on the same
footing in terms of mysteriousness in someone who
had committed suicide, is that correct?

They will agree, sir, that you really would not have
resorted to garbage pails at all to find out
the parameters of the drugs you were looking at,
the outset you had said to Mrs. Dawson, what
do you have in mind?

A. Yes.

Q. You will agree that really when
you went yourself later in the day over to the
hospital that really it wasn't going to be much of
a surprise to find out there on the charts what
Mrs. Dawson had been dealing with at the time
of her death.

A. Yes.

Q. So that when you said about
starting somewhere to start, you really had two places
to start: you could have started with the mother,
and you could also have started with the Hospital
records?

A. I believe I had started with the
mother and I believe I did deal with the Hospital
records.

Q. Before you went over to the



1
2 hospital at page 2907, and this is in Volume 142,
3 so I won't repeat the Volume each time. At page
4 2909, Mr. Hunt put to you, at line 17:

"Q. Mrs. Dawson came to you in the
afternoon of the day that her baby
died and voiced her concern, which you
recall as being one of death through
medication error. At that point had
you examined the chart of Baby Dawson
at all?

A. No, I had not.

Q. And given the simple statement of
the concern about medication error,
would it be appropriate for you at
that point in time to make any comment
at all about the possibility of that
having occurred or about what possible
medications might have brought about
the death of the baby?"

And you answer on the following page:

"A. I would feel uncomfortable
speculating about what might have
caused her daughter's death."

Doctor, in fairness really at that
point in time the very reason that she was coming



D8

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2 to you was to find the cause of death. I suggest
3 she wasn't really at that point in time she was
4 leaving it to you, she wasn't asking you for a
5 cause of death then, to speculate.

6 A. I believe that at that point
7 she was to discuss with Mrs. Dawson what might have
8 happened at the Sick Children's Hospital would only
9 make it her mind concerns about things that people,
10 possibilities, all it would do I felt at that point
11 would be to upset her more.

12 Q. My suggestion to you, sir, is
13 she wasn't really asking you to speculate at
14 all, she had laid the problem at your feet and you
15 had been frank and open with her and she had
16 answered all your questions. As you said she was
17 not asking you to find out the cause of death,
18 she was leaving it to you to go about your duty
19 to do this.

20 A. Yes.

21 Q. I suggest to you, sir, that you
22 go over to the Hospital and you say, I thought you
23 said you had notes that indicate what time in fact
24 you go over to the Hospital?

25 A. No, I don't believe I do have
a time of when I attended the Hospital. I have a



D9

1
2 when the case was given to me.

3 Q. Right. I was going to lead
4 from that, you don't as well, sir, you have advised
5 me that you then looked at her chart and you looked
6 at that drug she was on at the time of death
7 and that you ascertained she was on digoxin,
8 ~~digoxin~~ and an iron vitamin supplement.

9 A. An iron supplement, fer-in-sol

10 Q. But you don't have any note
11 there, all that in fact you did complete this task,
12 that is your own independent recollection of that,
13 is that correct.

14 A. I attended - are you suggesting
15 that I did not attend at Sick Children's?

16 Q. No, I am suggesting you don't
17 rely on it, you are just really going on your
18 independent recollection.

19 A. I attended I left the Warrants
20 there, that is the only way the Warrant that I
21 signed, the two Warrants that I signed could be there.

22 Q. I'm not suggesting you didn't
23 sign the Warrants. I am suggesting you have given
24 us now in evidence that you didn't ask Mrs. Dawson
25 about which specific drug, but then you went over to



D10

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Hospital to look at the charts?

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A. Yes.

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Q. And you went over to the Hospital too I am suggesting to you, for the purpose to deliver the Warrants for Burial and the Warrant for Autopsy, and that in fact your recollection of even your looking at the charts is not supported by any notes you made, it is upon your independent recollection.

10

11

A. No, excuse me, it is supported by Exhibit 413 made by the Commissioner this morning.

12

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Q. On the face of the Warrant itself I see you have got the case history here and set out the times.

16

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A. I signed the Warrant the day I was at the Hospital.

20

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Q. Really by inference you couldn't have got the information contained there unless in fact you looked at her medical records; I am agreeing with you Doctor.

A. Thank you.

Q. Do you get the gist of what I am saying there?

A. Yes.

Q. You couldn't have these specific



D11

states in all likelihood unless you looked at her

A. No question about that.

Q. When you looked at her charts
and you see the three medications. Could I
suggest to you, sir, that in terms of medications
really it comes down to two medications
like, that the vitamin supplement although
given at particular times and prescribed by the
in terms of the medications that would
have a danger, any real danger, we are talking about
and aldactazide.

A. Yes, I think that is correct.

Q. It struck me for the vitamins
you really have to have a jug full of them, and
given the way Amber Dawson was feeding you really
didn't have any likely chance of getting a jug full
of anything in to her.

A. I believe Mr. Hunt asked me
what medication she was on and I told him.

Q. I understand that. So, you know
at this point in time, from the mother and if you
didn't know from the mother you certainly knew from
the chart about the terminal events that Amber
Dawson had undergone.

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BM/hr

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Q. You knew the manner of how
Amber Dawson died?

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A. Yes.

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Q. All right, sir. As you
looked at those two drugs I would suggest to you,
Sir, you knew from your experience, if you had
advised your mind to it you would have known that
in fact the only drug of those two that would mirror
the terminal events that Amber Dawson had suffered
was in fact digoxin?

11

12

13

A. I don't believe that Amber
Dawson's death indicated a death by -- oh, Amber
Dawson's death could have occurred from many reasons.

14

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16

17

Q. I appreciate that. What I
am saying to you was that mother had raised a problem
about cause of death as wrong medicine, . wrong
medication. You went over and looked at the charts
to ascertain the medication the child was on?

18

A. Yes.

19

20

21

Q. You will see that in terms
of, we will say, potent drugs we've got aldactazide
and we've got digoxin?

22

A. Yes.

23

24

25

Q. You also see her terminal
events and I'm suggesting to you that quite apart from the



1
2 broad range of causes that Dr. Cutz was going to look
3 at here, that in terms of addressing the mother's
4 concern about drug problems that as you looked at those
5 the drugs in her chart and considered had she got too
6 much or too often, that in fact only digoxin really
7 the real suspect as the only drug that could
8 the kind of death Amber Dawson had?

9 A. I'm reluctant to not suggest
10 that aldactazide is a potent drug but Amber's cause
11 of death could be the results of many things.

12 Q. All right. But Dr. Cutz
13 was certainly going to look at a whole area of
14 potential causes of death in her anatomy?

15 A. Yes.

16 Q. All right. You would know
17 when that there was no routine post mortum testing
18 for digoxin?

19 A. Yes.

20 Q. All right. Mother has
21 expressed a concern about wrong medication, you haven't
22 asked her but you are now going to check the chart
23 and indeed you see two of them, digoxin and aldactazide?

24 A. Yes.

25 Q. And I'm suggesting to you
that although there may be a wide range of causes you



1
2 Are you going to limit yourself here?

3 A. No.

4 Q. But at the same time in
5 addressing her specific concern, and after all you
6 were looking at the medication chart now to address
7 the concern, that of the two drugs you saw there,
8 digoxin was the only one that was going to have
9 potential events similar to that that Amber Dawson
10 mentioned.

11 A. Yes, I would agree, yes.

12 Q. All right. At that time,
13 did you know that within that Hospital for
14 Sick Children there certainly was, at least with
15 respect to adult patients, there was certainly testing
16 procedures available with respect to both aldactazide
17 and digoxin?

18 A. Yes.

19 Q. And certainly in terms of the
20 difficulties that you expressed earlier about a
21 drug screen, if, to err on the side of caution you
22 simply limited yourself to the two or
23 for the three for that matter, but the two that
24 were on her chart, that certainly would go a long way
25 to being able to satisfy Mrs. Dawson's concern about
wrong medicine?



1
2 A. That's the case now, yes.

3 Q. Well, not even now, really.

4 I do appreciate that hindsight has these 20/20
5 predictions, but there you have the mother expressing
6 concern. You know Dr. Cutz doesn't do it routinely,
7 and even as you have said here, now and then,
8 that concern would indeed cause those kinds of
9 symptoms that Amber Dawson had, thelethargy, the
10 slowing of the heart rate and the irrecoverable
11 damage. You have it in front of you, you have a
12 hospital where that in fact can do a test for you
13 reliably and efficiently. I'm suggesting to you that
14 even if you said, well, listen, I'm not going to
15 take every drug for this lady but if you said I will
16 take those two that are on the charts, then and
17 now, you would have gone a long way to satisfying her
18 concern about wrong medication?

19 A. In reviewing the chart there
20 was no evidence whatsoever that the drug digoxin had been
21 ordered inappropriately or that it had been
22 administered in any but a correct way.

23 May I suggest that with that information,
24 that might be the one drug that I would have the least
25 suspicion of. Amber had been on digoxin for months,
she had her blood levels tested, the drug dosage had



1
2 varied very little over many weeks and had been
3 carefully recorded during her attendance in the
4 Sick Children's Hospital. I suggest that on my
5 review of the Hospital chart this was one drug that
6 was well documented and correctly ordered and
7 administered.

8 Q. Your indulgence for just a
9 moment, Doctor.

10 Whenever you wish to take a break, Mr.
11 Commissioner, just give me the sign.

12 THE COMMISSIONER: Well, is this a
13 good sign?

14 MR. SHANAHAN: If I can't locate my
15 page it will be a great time.

16 THE COMMISSIONER: All right.

17 MR. SHANAHAN: Q: One last question
18 once then, Doctor. Doctor if you had Amber Dawson's
19 medical chart in front of you - thank you, Mr. Elliott.

20 A. I have it here.

21 Q. If you could turn sir to
22 page 87, which is the Medication and Treatment Record.
23 You say, Sir, I think your evidence was here as I
24 paraphrase the last answer was that there was nothing
25 in her charts that had been carefully recorded and
there was nothing in her charts that in any way might



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3 raises my concerns on your part about the administration
4 of digoxin.

5
6 And yet, as you can see on page 87,
7 the orders for digoxin on the 28th and 29th haven't
8 been completed. I have a note here, I think it was
9 Nelles' evidence that I was scratching in here
10 and that it was that they weren't completed because
11 the charts were taken off the ward prior to her
12 scratching it and therefore they were left uncompleted,
13 they had gone with the body.

14
15 Now, that's my scrawl that I have
16 scratched out but I think the evidence bears it out.

17
18 Surely when you got there and you
19 looked --

20
21 THE COMMISSIONER: There is some
22 problem here because Amber Dawson died at 2:00 o'clock
23 in the morning of the 8th, am I correct on that --
24 she died?

25
26 MR. BROWN: I think, Mr. Commissioner,
27 Nelles' evidence was that the dose prescribed for
28 2100 hours on the 27th was administered but that was
29 the dose that was not recorded because the child
30 died the following morning.

31
32 THE COMMISSIONER: Oh, yes, that's the
33 one, yes. It is not the 28th it is the 27th at 2100

MR. SHANAHAN: All right. So, am I

Mr. Brown, is it the 27th then at 2100 that is
recorded?

MR. BROWN: I believe that's the one
 that is not recorded but on her recollection it
 would have been administered in due course.

MR. SHANAHAN: Q: All right. And that the reason that she gave for it being incomplete was that the documents left the floor with the baby's body too quickly for her to complete it.

So, sir, we have that then right on the record on the very night that Amber died. We have there a gap in fact with respect to the administration of digoxin to her. So, I would suggest to you that there was no comfort to be taken here from her medication chart. Quite to the contrary, you saying it was accurately recorded, in fact, on the very night that she died there had been a difficulty with the recording of the dosage.

A . If you refer to page 80 of the progress notes, the notes signed by S. Nelles beginning on the middle of the page?

Q. Yes, sir.

A. Proceeding to page 81, a



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reconstruction of the events that took place, describing
and indicating that Dr. Reynolds had been
notified and my interpretation of that, along with
the evidence that you have referred to suggested to
me that probably at that time the Doctor was involved
with a child that was ill and that either the --
and I testified at that time that the medicine was not
given at that time, that the dose was not received.

Q. You believe now or you

believe then?

A. I believe that that was my
impression at the time that that dose was probably
not given.

Q. Did you make any further
inquiries about that?

A. No, I did not.

Q. But you will agree with me
that in the questioning in this area at this time,
you will agree with me that your suggestion a few
minutes ago that you looked at the records to see
that they were complete to see in fact whether they
on the face of them indicated anything and your
conclusion that in fact they accurately recorded the
dosages being given to Amber throughout her stay in
the Hospital, you would agree with me that really the

Bunt, cr.ex.
(Shanahan)

Page 134 sets out the dosages on the last night is
potently incomplete on its face?

A. But it does not suggest

any overdose.

MR. SHANAHAN: Well, perhaps we will
follow that up after the break.

THE COMMISSIONER: Yes. All right,
we will take 20 minutes then.

Recess.



10 May/84
RD/ac

—/0... resuming

THE COMMISSIONER: Yes, Mr. Shanahan.

MR. SHANAHAN: Yes, sir.

Q. Doctor, I think we left off
at the point where you said that you had gone over
the charts and, indeed, had seen the two
charts that she had been on at the time of her death
and that it had seen the final entry on the charts
was not made by Susan Nelles. I think your evidence
at page 2911 that what you were looking for

" ... in any inordinate amount or
in error? "

Q. Were you were referring to a drug in an inordinate
amount or in error.

A. I'm sorry, where are we

now?

Q. We are at your evidence
and the purpose of your visit over there to
the hospital and checking the records.

A. Yes.

Q. All right.

A. I went to initiate an
investigation to discover cause of death.

Q. All right. And on 2910



F-2

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2

Mr. Hunt asked you at line 16:

3

" Q. And specifically what were you
4 looking for?"

4

5

And your answer was:

6

" A. I was looking to see if there
7 was any indication on the chart at
8 all that this child had received an
9 inappropriate drug. "

9

Did you find that?

10

A. No, I did not.

11

Q. Your answer was then and

12

now, that?

13

You outlined the medications you have
14 said us about, coming to the top of page 2911 when
15 Mr. Hunt says to you at line 7:

15

" Q. Now, did you find in the chart
16 any indication that any of those
17 two drugs, or the iron vitamin
18 solution, had been given in any
19 inordinate amount or in error? "

19

You said:

20

" A. No, I did not. "

21

He asked you what else you did and you went on about
22 the Warrants that you completed with respect to
23 Amber Dawson. That is still your recollection?

24

25



F-3

A. Yes.

Q. You would agree at the time you knew that in terms of errors, known errors at the hospital that, in fact, number one, the individual doctor that had made the error, in fact, would have to realize subsequently that they did, in fact, make the error?

A. For it to be recorded.

Q. Yes.

A. Yes.

Q. And they would complete what is called, I think, a Drug Incident Report and that would be part of the chart that you would, in fact, have?

THE COMMISSIONER: I'm not sure of that. I'm not sure it is part -- we found that it wasn't on at least one occasion.

MR. SHANAHAN: All right.

Q. You were aware, put it this way, that if you like, it was sort of a self-policing type of thing, that you would remember and complete wherever it might be filed a Drug Incident Report?

A. I know that -- I don't know the mechanism, the form that is used at the Sick



F-4

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2 Children's Hospital, but I know that errors are recorded
3 in the chart in some method. I didn't know it would be
4 in Incident Report in that sense.

5 THE COMMISSIONER: I was going to
6 suggest they are not all recorded in the chart, but
7 perhaps I am wrong. I am not sure the error in the
8 Incident Report recorded wasn't in the chart.

9 MR. SHANAHAN: That is what I was
10 going to say to you, sir.

11 Q. First of all, even the
12 system, as set out, you knew was certainly the
13 limitations that it had, first of all, were that one
14 had to realize that one had committed an error.
15 It would be known errors?

16 A. Yes.

17 Q. Second of all, if there
18 was a reporting system that, too, would have to
19 be completed and, as we have seen, I can tell you,
20 sir, we have at least one incident where the
21 medication chart or the error record wasn't there.
22 Certainly there was another limitation on looking
23 at the chart for the recording of drug errors. You
24 will agree there. One had to know the error and
25 complete a report.

26 A. Yes.



F-5

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Q. Finally, sir, even presupposing that was done, you certainly weren't, I take it, in terms of the completeness of your investigation here, you weren't going to limit yourself to what someone might have told about themselves. You weren't going into it with that sort of a closed mind, were you?

A. No.

Q. Sir, you indicated then -- did you make any notes, by the way, of the conversation that you had with Mrs. Dawson much later in November, the final autopsy report?

A. No.

Q. But you do meet with her and you reviewed that report with her?

A. Yes.

Q. I think you characterized -- I will just read it to you at page 2923 -- I think you characterized, sir, her attitude, at least one aspect of her attitude, was the feature of disappointment. At page 2923, sir. Mr. Hunt starts at line 11:

" Q. Did you explain to her how you felt about that particular state of affairs?



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A. Yes.

Q. What was her reaction?

A. I think Mrs. Dawson was
was disappointed. "

A. I'm sorry, I don't have you. 2923?

Q. Yes, sir.

A. Line?

Q. I was starting at line 11.

A. I'm sorry, I thought

you said 7.

Q. Just the previous answer

sets it up that you had gone through the
autopsy report and told her what the findings were?

A. Yes.

Q. The question was:

" Q. Did you explain to her how you
felt about that particular state of
affairs?

A. Yes.

Q. What was her reaction?

A. I think Mrs. Dawson was
disappointed. "

Mr. Hunt asked you:

" Q. In what sense?

A. I believe she was disappointed



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that we hadn't discovered an error
somewhere, something wrong. "

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Mr. Hunt says to you:

" Well, certain things wrong had been
discovered but was this in a
different context? "

5

6

said:

" Not in a medical sense, I mean in
a therapy sense.

10

Q. All right, I'm sorry what do
you mean by that? "

11

12

Your answer was:

13

" That something I think she was
disappointed that we didn't find
something wrong with Amber that wasn't
explained on the basis of disease.

14

15

16

Q. I see.

17

THE COMMISSIONER: She didn't find that
someone had done something wrong, is
that what you mean, or is that what
she expected? "

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You say:

21

" THE WITNESS: Actually, all I really
gleaned from Mrs. Dawson at the
meeting was a sense of disappointment.

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F-8

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2 THE COMMISSIONER: Well, if she had
3 spoken earlier of medication error,
4 then surely that was what she was
5 speaking of, is that not correct? "

6 Your answer was:

7 " THE WITNESS: At this meeting I don't
8 recall medication error being an
9 issue. "

10 A. At that meeting, yes.

11 Q. All right, I suspect, sir,
12 the only disappointment there was, in fact, there
13 was not given to her, as she perceived it, there was
14 not given to her a cause of death.

15 A. I don't know whether that
16 was her disappointment or not.

17 Q. All right, let me advise
18 you, sir, that you both agree she, too, her evidence
19 was that digoxin or drug medication didn't come up
20 at that meeting. I think you fairly say that
21 and I think if you referred to her evidence she says
22 that as well. But I'm suggesting to you that the
23 sense of disappointment was clearly, as you related
24 here at the autopsy report, was that that report
25 concluded that there was no anatomical cause of
death, there was no immediate cause of death. That,



1
2 as you conveyed that to her, caused an immediate
3 disappointment on her part.

4 A. That may well be, yes.

5 Q. Did you think then, sir,
6 as you, yourself, looked at that report and how
7 complete it was, the things that went through, how
8 surgery had been completed so successfully, and
9 I'm not going to repeat it for you, because you have
10 seen it, we have seen it many times. Then the
11 conclusion, as it was, did it not perplex you then
12 that perhaps now, if ever, was the time to test for
13 the presence of digoxin in either her tissue or if
14 there was any other samples available?

15 A. It is not uncommon to not
16 have a continuum from the underlying cause of death
17 to the actual cause of death event. We did not have
18 that there in the description from the pathologist.
19 That did not say that it did not exist. You cannot
20 observe an arrhythmia when you do an autopsy. There
21 are some things that don't show at autopsy that,
22 in fact, can be related to an underlying cause of
23 death.

24 It is not uncommon for a relative to
25 not be able to accept that, because you can't present
them with something tangible and visible.



F-19

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Q. I think you said to Mr. Hunt that that was acceptable to you, but that, indeed, you didn't offer that it was usual that you would have the cause of death. Have I fairly summed that up, that terminology?

A. We see people who die that we cannot go to the last why. If you keep asking why or how, sometimes you can't get that last how

Q. All right. I am prepared to accept that phenomenon, if you like, but what I am suggesting to you, sir, although you found it, as you said, acceptable, you did agree it certainly

A. It is not unusual.

Q. All right. Would you agree that --

A. But most times. Most times the pathologist comes up with a sequence of events that satisfy a person who doesn't have a lot of medical background and can see the sequence of events laid out before them.

Q. Yes. I was going to say it would seem to me that after the kind of exhaustive autopsy here, the Coroner being involved, that really



F-11

1
2 those cases that come back, as explicitly as this,
3 with no immediate cause of death, really they are
4 the exception and not the rule.

5 A. Yes. They are not the rule.

6 Q. It struck me, as I looked
7 back over the cause of death that were given to these
8 children through the months, and of course no one
9 had any suspicion of digoxin at the time, but as
10 ~~we look back~~ over the months really Amber Dawson is
the only chart, is the only one up to Pacsai --

11 THE COMMISSIONER: Valesquez.

12 MR. SHANAHAN: Valesquez, I think
13 Valesquez was related to an idiosyncratic reaction
to drugs

14 THE COMMISSIONER: That was a
15 speculation.

16 MR. SHANAHAN: All right.

17 Q. I suggest to you that the
18 categorical "no immediate cause of death", as I
19 reviewed the 29 or 36, bearing in mind that caveat
20 there about Valesquez that no other had such a
21 categorical statement, that there was no apparent
cause of death in the anatomy.

22 MR. HUNT: Surely that can't be
23 something for this Doctor to comment on. He was
24
25



F-12

involved with one isolated death that he looked

THE COMMISSIONER: I agree. I think
ask him to assume that if you like.

MR. SHANAHAN: Q. I suggest to you,
when you say though it is the exception and
the rule that you are talking about the general
population. I would suggest that a child, who was
in Cardiology, Infant Cardiology at Sick Children's
Hospital given her course, given the reason she was
there for a failure to thrive, and you would have
seen that on the records, given she hadn't had any
surgery, for her to die the way she did and for you to
subsequently be told that there was no obvious cause
of death, that really then, if the warning signs
hadn't gone off earlier, they should have gone off
then, sir, to look elsewhere for the cause of death,
sir.

A. The term was not obvious
cause of death. The immediate anatomical cause of
death not determined. That signifies to me that the
actual event that preceded death is not
demonstrated at autopsy. It doesn't indicate to me
that there are not factors that could lead to
Amber's death. That is what congenital heart disease



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and right hemidiaphragm paralysis is all about.



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3 Q. And there was no immediate
4 anatomical cause of death; and what I am saying to
5 you Doctor, surely this was the time if ever to
6 look around for another cause of death; surely this
7 was the time to check the medications once and for
8 all.

9 A. That would involve me having
10 some reason to approach my superiors with a request
11 for ~~information~~.

12 Q. Doctor, the next time you
13 speak with Mrs. Dawson is after the arrest of Susan
14 Nelles, and you spoke with her by telephone. I think
15 you indicated that in part of that conversation Mrs.
16 Dawson brings out the issue of digoxin?

17 A. Yes.

18 Q. I don't know whether you
19 said specifically or not, but I would like to clarify;
20 did you say if she specifically said, "I have read
21 about digoxin in the papers", be it the Globe and
22 Mail or what have you, and that is why she brought it
23 out. Or did she, sir, simply bring up once again
24 about digoxin?

25 A. I don't know whether she
brought it up or I brought it up, but there was a
discussion about what was in the media at that point.



G-2

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2 In all honestly I don't know how it was discussed
3 but I do know that that was discussed.

4 Q. In fairness then quite clearly
5 the issue of digoxin came up again, and this lady
6 would think it is clearly in terms of a search
7 for cause of death when you bring up the issue is she
8 ~~thinking~~ to have the baby exhumed and she indicates
9 she is and you indicate you--

10 A. That's correct.

11 Q. And looking back, sir, then
12 didn't you feel that at the end of that telephone
13 conversation as that issue came up, be it from you
14 or be it from her, really in hindsight then, sir,
15 as you sat there in April and knew what was swirling
16 in the air about the arrest of Susan Nelles and the
17 modus operandi if you like of the use of digoxin, did
18 you think then in hindsight, sir, it would have been
19 a good thing had you in fact run those two tests for
20 aldactazide and digoxin on Amber Dawson?

21 A. I think my hindsight is as
22 good as anybody's yes.

23 Q. And you will agree that in
24 fact Mrs. Dawson brings up, and I can give you again
25 the page and the reference, she brings up that you
did in fact make that comment to her.



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2 A. Yes.

3 Q. In that conversation, that
4 is hindsight it would have been good if you had done
5 it. Do you agree?

6 A. Yes.

7 Q. Looking back, sir, on both
8 your recollection of these events, would you agree
9 with me that in terms of Mrs. Dawson and her account
10 of that first conversation of July 28th, really may
11 be looked upon, if you like, from one point of view,
12 that when you look back now she could be taking a position
13 that perhaps we all take in life, that hindsight is
14 often a tendency to say, "I told you so". Her
15 position really in one sense would be if you like,
16 self serving; do you agree?

17 A. It could be interpreted that
18 way, but that is not how I feel about Mrs. Dawson.

19 Q. Would you look back, sir, then
20 in terms of your recollection of it, bearing in mind
21 that you do, under the general umbrella of the
22 Attorney General's Office and that you are part of
23 an investigatory body under the Coroners Act.

24 MR. HUNT: It is actually the Solicitor
25 General's Office.

Q. Bearing in mind the tragic



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events that have occurred in the months afterwards,
and what we now know or suspect about the role
of Digoxin; and bearing in mind what you both - I have
another long question here, bearing in mind what you
both do agree about July 28th that the subject of
wrong medication came up, would your recollection,
sir, be clouded by the fact that you and your office
really are in a serious and a difficult position if
you overlooked the warning signs?

A. I don't feel that way in my
heart,

Q. At that time I take it that
you held the Hospital for Sick Children's reputation
in high regard.

A. I did.

Q. If not just on the Continent
really world wide it enjoyed a tremendous reputation
for the care of sick children?

A. I would agree.

Q. Could I suggest to you, sir,
that really your recollection is clouded by the
fact that here you had a single parent, grieving
over the death of her only child, and coming in to
you on the day of that death, and making the suggestion
about error in a Hospital that enjoyed a reputation



that you have just mentioned; and that in fact after
you left you either dismissed that or overlooked that?

A. I didn't believe that.

Q. Could I suggest, sir, that
the reason you were chosen for this job, and specifically
had this case allocated to you, was in fact that the
woman was that you had a very upset mother,
that needed to be dealt with, she needed to be
calmed and reassured, and given your experience and
good background you were just the person to calm her
and reassure her?

A. I don't believe that was
why the basis - the important element of why the
case was referred to me, no. I believe that may well
have been an issue, but I don't believe it was why
it was referred to me.

Q. It was an issue?

A. I don't know, you will have
to ask the person that referred it to me.

Q. But you perceived it now
as an issue?

A. As an issue.

Q. I suggest to you, sir, that
you saw your main function there to be calming this
lady and laying her fears about any medication errors,



and when she left unfortunately the concerns that she expressed were really swept under the carpet?

A. I don't believe that at all.

MR. SHANAHAN: Thank you very much.

THE COMMISSIONER: Yes. Thank you
Mr. Shanahan. Mr. Lamek.

EXAMINATION BY MR. LAMEK:

Q. Dr. Bunt, can we start please
with Exhibit 414, the Certificate of Death that
do you have a copy of that there, please?

A. Yes, I do.

Q. I was struck by something
said to my friend, Mr. Shanahan a few minutes
ago about not always being able to carry through
a continuum from underlying causes to the actual
final cause of the event of death?

A. Yes.

Q. I notice that on the
Medical Certificate, and is that completed in your
handwriting?

A. Yes it is.

Q. In the middle of the page
the Medical Certificate of Death (Part 1);

"Immediate cause of death:"
you have written:



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"Immediate cause not determined".

There is then a section:

"Antecedent causes, if any, giving rise to the immediate cause (a) above, stating the underlying cause..."

A. Excuse me, yes, that happens to be ~~inserted~~ on mine.

Q. You are familiar with this

~~I take it~~

A. Yes, I am familiar with it.

Q. That is what the form

~~provided~~ at that point?

A. Yes.

Q. And you have written in

~~there:~~

"Underlying cause right hemi-diaphragm paralysis, congenital heart disease".

A. Yes.

Q. And then there is a third

section:

"Other significant conditions contributing to the death but not causally related to the immediate cause (a) above"

A. Yes.



Q. Did you have discussion with Dr. Katz as to whether the right hemi-diaphragm ~~malformation~~ and the congenital heart disease were ~~underlying~~ causes of this death?

A. I obtained that information from the Report of Post Mortem Examination.

Q. I am interested in that ~~part~~, because at page 63 of the chart where that portion of the pathologists report is set out he ~~described~~ those matters not as underlying causes but as contributing factors?

A. Yes.

Q. Did you have some discussion with ~~him~~ as to whether they should more properly be described as underlying causes of the death?

A. I had discussion with Dr. Katz about this case. Following my discussion with the pathologist and receiving his report, it is my determination, or my responsibility to make a determination of the cause of death and to fill out the Death Certificate and that is what I did.

Q. If you can do so .

A. I have to fill out a Death Certificate.

Q. You have to supply the cause



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of death if you have the information available to
enable you to do it?

A. Yes .

Q. And it is fair, is it not,
at least on the face of his final autopsy report
that Gutz had identified neither an immediate nor
an underlying cause of death?

A. He hadn't worded it that

way.

Q. Indeed he had worded it in
language which was curiously similar to that in the
third heading?

A. Yes.

Q. "Significant conditions
contributing to the death".

A. Yes.

Q. And somehow those got
translated into underlying causes when you completed
the Death Certificate?

A. I took into account my
understanding of the circumstances leading to Ambers'
death?

Q. My question, I think, was
and let me go back to it, before making that translation
from contributing factors to underlying causes, did



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you have any discussion with Dr. Cutz as to the
propriety of the translation.

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A. No, I did not ask him if it was appropriate for me to make that change. No, I did not do that.

Q. Now, if indeed those two matters are as Dr. Cutz described them, contributing factors, and I take it Dr. Cutz had performed autopsies for the Coroner's Office on prior occasions, had he?

A. Yes.

Q. And he was familiar with the form?

A. I'm not sure whether Dr. Cutz is familiar with the form or not. I don't know he would fill it out hundreds of times. I don't know that he would ever fill it out.

Q. Did you ever, in talking to pathologists, make sure that they are aware of the distinction between contributing factor and underlying cause?

A. I don't believe I make that distinction in the discussion with him on every case, no.

Q. But here you have Dr. Cutz who is a senior pathologist at The Hospital for Sick Children and who has done autopsies for your office before, refers to matters as contributing

24

25



Q. Correct?

A. Yes.

Q. As I understand you, without consultation with him, you, in completing the death certificate, referred to them under the rather more general description of underlying causes; do I understand that correctly?

A. Yes.

Q. If indeed Dr. Cutz accurately described those findings as contributing factors, may I have it that as far as Amber Dawson was concerned not only was there no immediate cause of death but there was no underlying cause of death as determined by the pathologist.

A. The decision of filling out the death certificate rests with me, not with the pathologist.

Q. I understand, but my question to you is this. If Dr. Cutz correctly described those two conditions as contributing factors, then would you not agree with me that at least in his pathologist's view he was able to find not only no immediate cause of death but no underlying cause of death?

A. If you interpret it that way



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2 that is the way he has recorded it, I have to
3 that that is the case.

4 Q. Well, that's his language.

5 A. That's his language.

6 Q. And you did not seek to
7 clarify what he meant by that language?

8 A. No, I did not.

9 Q. Well, let's think about those
10 ^{two} ~~two~~ for a minute. On the basis of what you knew
11 ~~about~~ ~~Dr~~ Dawson, did you have any cause to believe
12 ~~that~~ congenital heart disease was a cause of
13 ~~the~~ ~~death~~ of her death?

14 A. In reviewing the autopsy
15 ~~report~~ and reviewing the clinical course of events,
16 I believed that the death certificate should read
17 ~~the way~~ it is written.

18 Q. Even though her congenital
19 ~~heart~~ defects had been successfully repaired surgi-
20 cally?

21 A. Her cardiac defects, the
22 ventricular septal defect and the atrial septal
23 defect had been repaired, but her heart was far
24 from normal.

25 Q. I accept that there had been
a surgical repair of what had initially been a



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Q. You were concerned that there



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2 were findings of abnormality in the conductive areas
3 of the heart, which I take it might produce arrhyth-
4 mia to the point where the child could succumb^{b?} Was
5 your understanding?

6 A. I was looking at the Autopsy
7 for a way of issuing a death certificate that
8 would explain the events as I knew them and would
9 be reasonable on the basis of the findings that
10 the pathologist had made.

11 Q. Dr. Bunt, forgive me, I don't
12 want to interrupt your answers, but if you could
13 answer the question I ask you and, if you need to
14 rephrase your answer, please do.

15 My question was: Was it your
16 understanding that the microscopic findings with
17 respect to the heart tissue in a conductive area
18 of the heart, as you have described it, was one which
19 would produce heart arrhythmias to which the child
20 might have succumbed?

21 A. That's possible. I believe
22 that's possible.

23 Q. You believe that to be possible.
24 Did you see any indication in the chart of this child
25 that any such incident may have occurred?

A. The child died --



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3 Q. Well, doctor, first could you
4 question and then explain your answer if
5 it be necessary. Did you find any indication in the
6 chart such an incident might have occurred?

7 A. The description of the death
8 recorded in the chart was not incompatible,
9 causation, with that cause of death.

10 Q. Okay. You told Mr. Shanahan --

11 A. Excuse me, it's the page that
12 Mr. Shanahan and I were discussing earlier.

13 Q. You told Mr. Shanahan, as I
14 recall your evidence to him, that the pattern of
15 this child's dying could have manifested any one of
16 several causes.

17 A. Yes.

18 Q. And you happened to select one,
19 depending upon the abnormal finding in heart tissue
20 for which I suggest to you there was no other
21 indication in this child's chart of her last hospital
22 admission other than the terminal event, which, on
23 your own evidence, was ambiguous as to cause?

24 A. Yes.

25 Q. Do you regard the right
hemidiaphragm paralysis as a life-threatening
condition?



1
2 A. I regarded it as a serious
3 condition and I believe it was a serious condition
4 in relation to Amber's death.

5 Q. Did you regard it as a life-
6 threatening condition to the point where it could
7 be regarded as an underlying cause of death - your
8 conclusion, not the pathologists?

9 A. I believe it could be one of
10 the major factors in her death, yes. If I am not
11 answering your question, I apologize, but I will
12 try. If you want to rephrase it.

13 A. No. That was your belief that
14 this could indeed be an underlying cause of her
15 death.

16 A. Yes.

17 Q. You didn't discuss that with

18 Dr. Dwyer?

19 A. No.

20 Q. And you were aware, of course,
21 from having read the chart, that the diagnosis of
22 right hemidiaphragm paralysis had been made some
23 couple of weeks before her death?

24 A. No. I believe it was longer
25 before than that.

Q. Well, certainly by July 14th,



2 in the hospital, the Laurentian Hospital in Sudbury,
3 there is a diagnosis that the elevation of the
4 right diaphragm is due to phrenic or partial phrenic
5 paralysis.

A. Yes.

Q. If you regarded that as a
6 condition of the seriousness which you have described,
7 possibly life-threatening, that may be an underlying
8 cause of death, did it occur to you to wonder why
9 that condition had been allowed to persist as long
10 as it had?

A. It was allowed to persist
11 because Amber was ill. The alternatives were surgery,
12 and they were being considered. The hemiparalysis
13 came about as a result of her congenital heart
14 disease, the treatment of her congenital heart
15 disease.

16 Q. The surgical treatment?

17 A. Yes.

18 Q. Yes. And that had been in
19 May, had it not?

20 A. Which makes the existence of
21 her hemidiaphragm paralysis directly related to
22 her congenital heart disease.

23 Q. Yes. I understand the
24 continuum that you are drawing, but I am not sure

25



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2 that I would regard something flowing from surgical
3 intervention as therefore directly related to the
4 reason for the surgical intervention. But let's
5 forget that one for the moment. Certainly, for
6 ~~this child~~ this child had some interruption of the
7 ~~brachial~~ nerve producing a degree of paralysis of the
8 ~~limbs~~

9 A. Yes.

10 Q. She was not brought back to
11 the Hospital for any pathological condition, was she?
12 ~~Was it your~~ your understanding she was brought back
13 ~~because of~~ a failure to thrive?

14 A. I agree that she was brought
15 ~~back~~ as the result of a failure to thrive. I don't
16 ~~know if~~ an underlying pathological condition had not
17 been considered as one of the reasons for her failure
18 to thrive.

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11.18
Q Did it occur to you to ask
the question of anybody at the Hospital whether
any thought had been given to surgical repair of
the phrenic nerve to remove the paralysis?

A Oh, this I believe was
yes.

Q And did you ask anyone
that had not been done prior to July 28th when
the child died if indeed it was a life threatening

A I'm sorry, I don't
understand the focus or the object of your
question.

Q Well, let me be blunt about
the object of my question, Dr. Bunt. The pathologist
who conducted this autopsy identified two
contributing factors and no cause of death. You,
in preparing a medical certificate of death, trans-
lated his factors into underlying causes.

A Yes.

Q My question really goes to
this. If you thought that those conditions warranted
the elevation to underlying causes of death, and then
I am suggesting to you that perhaps some inquiry
should have been made as to why a condition



B.11

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2 was sufficiently life threatening for you to think
3 it was an underlying cause of death was allowed
4 to persist for more than two weeks?

5 A. I believed that this child
6 died a cardiac death at that time when I read
7 the pathologist's report and considered the
8 course of this infant's hospital treatment and
9 illness.

10 Q. And have you not told me
11 everything upon which you relied in forming that
12 conclusion?

13 A. I believe so, as best as
14 I can recall at the moment. There may be other
15 issues but I don't recall at this moment.

16 Q. I would take it that a major
17 piece of information for you was the report of
18 Dr. Cutz?

19 A. Yes, it was.

20 Q. You have referred to notes
21 that I think you said you made at the time. Can
22 you tell me please what matters are covered or
23 referred to in those notes?

24 A. What notes?

25 Q. Well, at the beginning of
your evidence yesterday with Mr. Hunt you said



1
2 yes, I referred to notes which I made at the time.
3 I would like to know what notes --

4 A Oh, I'm sorry. My file card
5 which is kept on each case.

6 Q Yes.

7 A And the report that's made
8 to the Chief Coroner's Office is in my handwriting
9 and subsequently typed up and passed on to the
10 Coroner's Office?

11 Q All right. And that is the
12 extent of the notes to which you made mention?

13 A Yes.

14 Q All right.

15 A Excuse me.

16 Q I'm sorry.

17 A There are other notes in
18 regard to appointments and that type of thing
19 that have been made by other people that are in
20 my file but they are very limited to that type of
21 thing.

22 Q When you contacted the Hospital
23 following the receipt of the message that Dr. Bennett
24 wanted you to take this case on, did you make a note
25 of your conversation with anyone at the Hospital?

A No.



BM:jc

H.12

Q All right. And when you then spoke to Dr. Bennett, as I think you said.

A Yes.

Q Did you make any note of the of that conversation?

A No.

Q When you were in contact with Hospital on the first occasion after receiving message from the Clerk, to whom did you speak?

A I believe I spoke to someone in Medical Records who would know whether Amber had been released from the Hospital.

Q And that was your concern at that time, was it, to make sure the body was still available?

A To make sure that Amber was still there and that the information was available to me.

Q Okay. But you did not at that stage learn anything about the child, her illness or history or anything of that sort?

A No, nothing.

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Q. So far as the meeting with Mrs. Dawson goes, afternoon of July 28th, as I read your evidence, and it is found, sir, on page 2893, Volume 1 of your evidence is, (and I hope I don't do violence to it, Dr. Bunt) you do not recall the subject of digoxin being raised at all during that meeting and further, you do not believe, your language, you do not believe on that day Mrs. Dawson expressed any suspicion that her daughter's death may have been caused by digoxin error?

A. Yes.

Q. I ask you, Dr. Bunt, are you able with certainty that digoxin was not mentioned?

A. I am not able with certainty to state that digoxin was not mentioned, no.

Q. There could have been such a reference in the conversation?

A. Yes, because I don't have a complete record of what was said.

Q. I take it you are fortified in your belief there was no such mention by the fact you did nothing about digoxin in your investigation?

A. I did nothing more about digoxin than I did about aldactizide or other drugs, yes.

Q. You are really saying this to



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Q. Dr. Bunt, that digoxin, you believe, was not mentioned because if it had been you would have mentioned it in some way in your investigation. Is that really what you are saying?

A. Yes, that is correct. If digoxin was an issue at that point in time I would have considered it in the investigation as an individual drug.

Q. Your recollection is that Mrs. O'Sullivan on that day did express a concern that Amber may have received the wrong medication?

A. Yes.

Q. Thank you. I recall my friend, Mr. O'Sullivan, put to you different formulations of that concept, that you used in different points in your evidence the other day?

A. Yes.

Q. Are you able now to recall her exact words?

A. No. I believe she came in expressing that concern, along with other concerns. The initial approach to me -- pardon me for backing up a bit -- the initial approach to me was:

"My baby I don't think should have died and I want to know the cause or I want to know why my baby died"



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The possibility of wrong medication was one of the things that she mentioned during that discussion.

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Q. Yes, but since you cannot recall

and I am certainly not critical of you Dr. Bunt, but

since you cannot recall the precise words she used

to express just what it was she was concerned about

as to responsibility, may we take it that you really

can't say any more to us that there was a concern

expressed that the death perhaps may have been

medication related?

A. Yes.

Q. In some way there may have been

a connection with the death is what she was suggesting?

A. Yes.

Q. We can't get too hung up on the

words about whether it was the wrong medicine or medica-

tion error or any thing else. The concept was she

thought perhaps drugs in some way had been involved

in the death of her daughter.

A. Yes. Drugs in the plural sense that we did not focus on a drug.

Q. Right. I do want to come to that. It is the lunch time Mr. Commissioner.

THE COMMISSIONER: All right. Until



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Bunt, cr. ex.
(Lamek)

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2:15 then.

MR. LAMEK: 2:15. Thank you.

---(Hearing adjourned for lunch)



resuming at 2:20 p.m.)

THE COMMISSIONER: Mr. Lamek.

MR. LAMEK: Yes, thank you, sir.

Q. Dr. Bunt just before me broke for
I think we had agreed that in light of the
unavailable inability to recall the precise words
of Mrs. Dawson on July 28th, it is fair to say
that another there was a concern communicated to
me possible explanation for the
leath might involve medication?

A. Correct.

Q. And, as you have told us, you
that expression of concern seriously?

A. Yes.

Q. I recognize it didn't take a
large part of the 45 minutes you spent with Mrs.
Dawson that day. It may have occupied only a very short
time but it was nevertheless something you noted and
you took seriously?

A. Yes.

Q. But really, of course, as I
understand you, when it came right down to it, it
was impractical in your judgment, to follow that
concern very far, because you had no idea what
medication might be involved. It was a limit to what



1
2 you could do?

AA2 3 A. At what time are we talking now,
4 Mr. Lamek?

5 Q. I am suggesting it was during
6 that meeting on July 28th you recognized a mere
7 suggestion there may be some medication involvement in
8 that really didn't give you very much to go on did it?

9 A. Well I hadn't made a determination
10 at that time what I would do with that interest or
11 concern on her part. On the 28th, the day she
12 arrived in my office, she expressed her concerns and
13 at that meeting I initiated the investigation.

14 Q. Well, I am a bit puzzled then
15 by the evidence you gave when the Commissioner asked
16 a couple of questions. This is page 2906, Mr.
17 Commissioner, Volume 142.

18 A. I'm sorry --

19 Q. 2906. I think fairly we should
20 have the whole sequence of the question beginning at line
21 4 where the Commissioner said to you:

22 "In a case such as Mrs. Dawson's
23 complaint how would you comply at all?
24 If she says she has a suspicion that
25 she was given the wrong medicine, how
do you test for that sort of complaint,



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or can you not?"

You said fairly:

"That is my problem. I had no where to start. The compendium of drugs is probably two or three inches thick."

Mr. Hunt said:

"We are going to get into an examination of the chart to see if there was any indication in the chart of any medication errors or drugs being given that weren't perhaps recorded as that. That was the next ..

THE COMMISSIONER: What I am concerned about Doctor, is this: suppose someone comes to you and says, "I suspect my child has a medication error" and that, in its self, is not enough. I mean somebody who has died in a Hospital, it is not enough. It won't help you out at all. You can look at the chart..

THE WITNESS: Yes, you would.

THE COMMISSIONER: .. and see what you can come to. What do you say to the mother or to the relative who says this? Do you tell them that you can't without



AA4

some indication of what the medication error was?

THE WITNESS: It would depend at what point of the investigation you are talking to the relative.

THE COMMISSIONER: I don't want to ask a hypothetical question. I really mean, did you say, or what do you remember that you said to Mrs. Dawson?"

"I do not recall specifically what I said to Mrs. Dawson, but I know what my intention was, having heard what she said. "

With respect, that suggests to me, that at the end of that meeting with Mrs. Dawson, having heard what she said, you knew what you were going to ^{do} ~~go~~?

A. Yes.

Q. All right.

MR. HUNT: How is that different?

THE WITNESS: But not dismiss the issue which is what I interpreted from your question.

Q. Don't interpret my question, Doctor, listen to my question.

THE COMMISSIONER: Just a second, we



1
2 have had an objection from Mr. Hunt.

3 MR. LAMEK: I'm sorry.

4 THE COMMISSIONER: I have to deal with
AA5 that.

6 MR. HUNT: Just a clarification. We
7 have had pages read and I say how is that any
8 different from what the witness has said right now?
9 That at the end of the dicussion with her he knew
10 what he was going to do.

11 MR. LAMEK: Forgive me. I understood
12 you say, that when I put to you that you really
13 couldn't do very much on the basis of that information
14 you said you didn't know what you were going to do,
15 I thought.

14 A. No.

15 Q. Let's start all over again.

16 A. I could do things, but I could
17 not at that point in time decide what, if any, tests
18 I was going to order.

19 Q. Let's go back to this
20 question Doctor: if Mrs. Dawson said to you, as I
21 understand your evidence to be:

22 "I am concerned there may have been
23 some medication involvement in Amber's
24 death"
25



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2 With that information there is precious little you
3 can do by way of screening the drugs, is there?

4 A. If you are talking about tests

5
6 Q. Because you don't know what you
7 are looking for . That is what I understand your
8 evidence.

9 A. Yes.

10 Q. You have the whole pharmac^{opiea}~~apeta~~
11 to look at.

12 A. Yes.

13 Q. Did you tell Mrs. Dawson that?

14 A. No, I don't believe I told Mrs.
15 Dawson that?

16 Q. Mrs. Dawson is expressing to you
17 a concern there may be drug involved in her
18 child's death and you don't say to her:

19 "Mrs. Dawson, how do I begin? I

20 can't possibly screen for every drug
21 in the world."

22 You didn't tell her of that practical difficulty?

23 A. I didn't know what I might find
24 as the investigation proceeded. I'm not going to --
25 that is the point that I was trying to make that I am
not prepared, at that point in time, to put barriers
up in front of myself by asking Mrs. Dawson to do my



AA7

job.

Q. I am not suggesting that you ask Mrs. Dawson to do anything; I am asking whether you said to her, in the course of that meeting: "Mrs. Dawson, I don't know where to begin to find out whether there was some medication involvement in your child's death".

A. I did know where to begin.

Q. You also knew as it turned out, where to end, did you not, on the review of the chart?

A. Yes.

Q. And the only thing you looked for on the chart was to check whether the prescribed doses were appropriate amounts; is that right?

A. Yes.

Q. And whether there were any recorded errors in administration?

A. And I reviewed the chart with the idea of trying to determine, at a course to determine the cause of death.

Q. With respect to the possible involvement of medication?

A. With respect to all possibilities.

Q. With respect to the possible involvement of medication did you do anything other



1
2 then check the chart for the two things you have told
3 us, to determine the appropriateness of the prescribed
4 doses and to determine whether there was any
5 recorded error in administration?

6 A. Or any incorrect or wrong drugs
7 administered.

8 Q. With respect to --

9 A. Yes, to what you have said with
10 that addition.

11 Q. Having drawn a blank on those
12 times, I take it you were then squarely in the position
13 that I put to you and you stated perfectly reasonably
14 you don't know where to begin to look for anything
15 other, any other kind of drug involvement?

16 A. Correct.

17 Q. Did you not say to Mrs. Dawson:
18 "look all I can do is this." You knew what you were going
19 to do to follow up the suspicion of drug involvement.
20 Why would you not tell her?

21 A. I did not discuss with Mrs. Dawson
22 any of the steps that I was going to take to try and
23 answer her questions. Why would I not tell her?

24 Q. Yes.

25 A. For the same reason that I
would not tell her other things that I might consider



1
2 during the investigation.

3 Q. Dr. Bunt, let me understand what
4 the situation was. You had, at the request of Dr.
5 Bennett, taken on this case and you were talking to
6 the mother?

7 A. Yes.

8 Q. She was a mother who that
9 morning had lost her child, and she was a mother who
10 for reasons that may or may not have been valid, was
11 concerned that an independant investigation be made
12 of the cause of her child's death?

13 A. Yes.

14 Q. Frankly she, rightly or wrongly,
15 she did not trust the Hospital to make an impartial
16 independant investigation. ~~was~~ that fair?

17 A. Yes.

18 Q. Is that fair that that was her
19 feeling?

20 A. Yes.

21 Q. She was concerned to know the
22 cause of her daughter's death, because as far as she
23 was concerned, it was an unexplained death. Is that
24 fair?

25 A. Yes.

Q. One of the things that occurred



1
2 to her was the possibility of some medication
3 involvement?

4 A. Yes.

5 Q. And you understood, rightly or
6 wrongly, she felt that was a possible explanation
7 for this terribly distressing and puzzling event that had
8 happened to her?

9 A. Yes.

10 Q. And you knew that unless you
11 could find some lead in the chart then there was
12 really nothing you could do to track that down, didn't
13 you?

14 A. Yes.

15 Q. Then I say to why didn't you
16 say to her: "Mrs. Dawson, I can't tell you whether
17 that is so or not. We might not ever be able to
18 tell you, because there is a real limit to what I can
19 do for you in that regard"?

20 A. Mr. Lamek, I didn't want to tell
21 her what limitations there were. The lady was upset.
22 I was not interested in telling her what I couldn't
23 do.

24 Q. Did you let her go away with the
25 idea there was something you could do about that
concern?



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Bunt, ex.
(Lamek)

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A. I hope I did. I hope I gave
her the impression that I was going to do my best to
satisfy her needs.

- - - - -



Q. As you told Mr. Shanahan, you certainly didn't say to her, look is there any particular indication that you think may be involved?

A. No. Because if I had it would lead to where you are alluding to.

Q. Where is that? A real investigation?

A. That more --

MR. HUNT: I'm sorry I didn't hear --

MR. LAMEK: The question was would it lead to a real investigation.

MR. HUNT: I don't understand that, my friend explain what he means by that question.

MR. LAMEK: Yes.

THE COMMISSIONER: Well I don't if that

MR. LAMEK: Well, I will withdraw it.

MR. HUNT: No. Mr. Commissioner, if a witness comes to be insulted by Commission Counsel then let's know that that is what they face when they come. I mean I didn't tell Dr. Bunt that he runs the risk of Mr. Lamek insulting him with that kind of a remark during the course of questioning. If there is more to it that means it is not an insult, or that type of remark then let my friend explain that and then I will withdraw my objection to it. At this



1
2 point now I take the position that it is a cheap shot,
3 it is an insult, that it really calls for an explanation

4 MR. LAMEK: Mr. Commissioner, I hope
5 Mr. Hunt knows me well enough to know that I did not
6 intend to insult Dr. Bunt, and forgive me Doctor if
7 you took that from me.

8 Q. You suggested that to have asked
9 Mrs. Dawson to suggest possible drugs that she
10 thought might be involved might have lead to where
11 -- so where I was alluding this whole line may be
12 leading. I wanted to know where you thought this
13 was all leading? What was wrong with saying to Mrs.
14 Dawson, look, without some help I don't know how to
15 start to screen for all possible drugs, Mrs. Dawson
16 can you help me.

17 A. I was prepared to make an effort
18 to get started and try and come to some conclusions
19 to help this lady who was very upset, four or five
20 hours after she had been informed about her daughter's
21 death and had been dealing with professional people
22 who were not giving her answers. I was not prepared
23 to put any more barriers in her way than absolutely
24 necessary.

25 Q. Can you explain to me Dr. Bunt
how asking for assistance, if she has anything to



offer you, is placing a barrier in her way.

A. You suggested I believe --

Q. Would you answer my question.

A. Just please hear me. You

suggested that I might say to her "I don't know where to start". I don't think that was a fair thing to say to her.

Q. I suggested now that you might have said to her "can you help me. Have you any thoughts as to what drugs might be involved?"

A. I didn't do it Mr. Lamek.

Q. How would it have been placing a barrier in her way to do it Dr. Bunt?

A. I didn't do it. That kind of question would not have put a bad complexion on it, but the first question I think it would. I think it would have been inappropriate for me to say to Mrs. Dawson, Mrs. Dawson, I don't know where to start, because I did know where to start.

Q. Are you quite sure in your mind Dr. Bunt that in the course of the conversation you did not say to her, is there any medication you do have in mind and that she did or did not in that context mention digoxin; are you quite sure of that?

A. I can't be certain of it. I



BB4
2 don't believe there was any discussion about any
3 specific medication at the time of our first meeting
4 on the 28th.

5 Q. When you did examine Amber
6 Brown's chart, you found she had been prescribed
7 we know digoxin, aldactazide and fer-in-sol.

8 A. Yes.

9 Q. Did it not occur to you that there
10 might have been an unrecorded error in administration?

11 A. She might have. Yes, that's
12 a possibility that she might not have received the
13 right drug.

14 Q. Or she might - I am sorry, go
15 ahead.

16 A. Those are possibilities, yes.

17 Q. And indeed I take it you know
18 from your long experience that when errors occur
19 in respect of drug administration they are not always
20 recognized to have occurred. Innocently and with the
21 best will in the world, a nurse, a physician can make
22 an error in administration without knowing it, is
23 that fair?

24 A. That's fair.

25 Q. And you are not going to find any
reference to that in the chart, are you?



1
2 A. No.

3 Q. And therefore reviewing the
4 chart for incident reports on the recorded administration,
5 administration, is not going to give you any
6 assurance that there has not been an error in
7 administration, is it?

8 A. It is not going to give me
9 total assurance that it has not happened; yes that's
10 right.

11 Q. I suppose one way of ensuring
12 at least that there had not been an error in the
13 administration of the prescribed drugs for the
14 child would be to write in your Warrant an order for
15 an assay of those drugs which you knew had been
16 prescribed for the child.

17 A. That's possible.

18 Q. There wasn't a great long
19 string of them, there were only two of them that
20 really counted?

21 A. That's right, yes, possible.

22 Q. Did it occur to you to do that?

23 A. I did not feel it was necessary
24 having reviewed the chart.

25 Q. Doctor, would you answer my
question, did it occur to you to do it?



MR. HUNT: Surely that is his answer
to the question.

MR. LAMEK: It is not an answer.

MR. HUNT: He said to him did it occur
to him to do it and he said I didn't think it was
necessary.

THE COMMISSIONER: No he might have,
the possibility there is that he might have considered
it and rejected it, or he might not have considered
it at all.

MR. HUNT: I'm sorry, I didn't catch
the possibility.

THE WITNESS: I am sorry, I can't
recall to be honest with you whether I considered it
or not.

Q. If you can't tell whether you
considered it, you can't tell me whether you considered
it necessary or not, can you? If it never crossed your
mind how could you have thought it unnecessary?

A. I have to go back to say I had
no problem with writing it if I felt it was
appropriate to do it after having reviewed the chart.

Q. Doctor, you can't even tell me
whether the thought occurred to you.

A. Four years ago, no I cannot.



1
2 Q. Did it occur to you, Doctor, to
3 make any enquiry as to the drugs that had been
4 prescribed for the children in Amber Dawson's room?

5 A. It did not.

6 Q. Although I take it there can
7 frequently be confusion about the recipient of a
8 particular medication. That didn't occur to you?

9 A. Frequently the confusion - I am
10 sorry.

11 Q. Let's deal with infrequently;
12 there can be confusion, can there not, in a drug
13 intended for ^A a child is administered by accident to
14 child B?

15 A. That has happened I would believe.

16 Q. Yes. I am not suggesting for
17 a moment it would have been an appropriate step to
18 look at every drug prescribed for every child on the
19 ward, but did it not occur to you to think of the
20 other children in the room and whether they had had
21 drugs prescribed which might by error have administered
22 to Amber Dawson?

23 A. No.

24 Q. Now. you issued your Warrant for
25 the post mortem examination on that same day; and you
have said the case history that is somewhere on the



BB8

Warrant came from your review of the chart.

A. Yes.

Q. So if I have the sequence of
things correctly then, having reviewed the chart for
a number of things, including - to see what if anything
could be disclosed about possible drug involvement
in her death, you then prepared and signed your
Warrant?

A. Yes.

Q. And the Warrant as we know
indicated no special examination or analysis with
respect to medication?

A. Yes.

Q. Is it fair to say Dr. Bunt, that
having made the review that you did of the chart for
the sake of checking the propriety of the drugs
prescribed and the doses in which they were prescribed
and checking for recorded drug errors, that essentially
guided your investigation of that particular concern
of Mrs. Dawson's?

A. I went on to other investigation,
yes.

Q. And that was the end of the drug
involvement investigation?

A. Yes, certainly at that point in



BB9

1
2 time.

3 Q. When did you ever do anything
4 before the drug investigation with respect to Amber
5 Decker?

6 A. Well when the whole issue
7 involving several months later and the issue of digoxin
8 before the issue.

9 Q. In the Spring of 1981?

10 A. In the Spring of 1981, the
11 first time the issue of digoxin was brought up.

12 Q. Doctor I take it over the many
13 years you have acted as a Coroner you have conducted
14 many investigations into patients who have died
15 suddenly and unexpectedly in Hospitals?

16 A. I have.

17 Q. Is it part of normal routine of
18 such an investigation to check the drug prescribed to
19 the patients and look for recorded medication errors
20 and so on, is that something you would routinely
21 do in investigating such a death?

22 A. It would depend on the circumstances
23 of the death.

24 Q. Now, I am not talking about a
25 patient who dies in the operating room or anything like



that. A patient who dies on the ward but whose death is reported on the basis that it is sudden and unexpected, is that something that is a matter of routine, you would look at it?

A. You would look hopefully at all aspects of the investigation. It may be quite apparent on how the person has died suddenly and unexpectedly, and drugs would not be an issue in those circumstances.

Q. I'm sorry, I didn't mean to interrupt you.

A. If drugs might be an issue you would investigate that area, yes.

Q. In other words unless there is some more promising lead to the cause of death you would normally look at the drugs among other things, and everything else?

A. Yes.

Q. Do I have it then that with Mrs. Dawson, notwithstanding her expressed concern about drug medication, your investigation of Amber Dawson's death involved no more than your investigation of most of the Hospital deaths?

A. With that dimension of drug medicine, wrong medicine, yes, that is true.



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2 Q. In other words whether Mrs.
3 Dawson raised the concern with you or not, it is
4 almost certain that you would have done exactly
5 the same thing, you would have checked the drugs
6 she had been on whether the doses were right; whether
7 there was any evidence of drug error, you would have
8 done that anyway?

9 A. I would have done that.

10 Q. When you received Dr. Cutz
11 final autopsy report in which you reported that the
12 anatomical cause of death was not determined, but he
13 listed two concluding factors, did you give any
14 thought at all to ordering an inquest?

15 A. I don't believe that was a
16 point in time when I considered that necessarily.
17 I had not spoken to Mrs. Dawson at that time when
18 I received the report, that would not be when I
19 would make a determination about an inquest.

20 THE COMMISSIONER: I'm sorry Doctor,
21 which would be -

22 THE WITNESS: Merely having received
23 the autopsy report, the complete report from Dr. Cutz
24 that would give me more information but it would not
25 be the time I would make a decision about an inquest;
I had not spoken to Mrs. Dawson.



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Q. Did Dr. Cutz report not at least give you this additional information, the cause of death was still unknown?

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A. Yes.

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Q. And that did not prompt you to think there should be an inquest.

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A. The fact that the cause of death is not known is not in itself a reason to hold an inquest.

Q. When you read that report and saw that Dr. Cutz was unable to identify the cause of death, indeed, was apparently unable to label anything, even an underlying cause of death, did the thought then occur to you that perhaps Mrs. Dawson may have been right and there may indeed have been some medication involvement in her daughter's death?

A. Yes, I think the possibility of other factors again entered my mind.

Q. It had to occur to you at that stage?

A. Yes.

Q. Did you do anything about it, Doctor?

A. At that point in time it was difficult to do anything.

Q. Well, did you speak to Dr. Cutz to see if he had ^{blood} large serum or tissue samples left from the autopsy?

A. No, I did not.

Q. Did you make any inquiry of



1
2 Dr. Cutz or from anyone, for example, at the Centre
3 of Forensic of Sciences to see if assays could be
4 done if tissues or blood were available?

5 A. No, I did not, to answer your
6 question.

7 Q. Well, was there anything
8 that you did when the possibility occurred to you
9 in mid October, late October, that, gosh, there is
10 no explanation, maybe there was some drug involvement?

11 A. Excuse me, I don't believe
12 there was no explanation.

13 Q. Well, there was no cause
14 of death identified?

15 A. Well, there was no specific
16 cause of death, there was no specific method of dying
17 that was discribed by autopsy.

18 Q. There was not even an
19 underlying cause identified by the pathologist?

20 A. In Dr. Cutz' first
21 communication with me, when he and I talked about this
22 case, a few days after the autopsy, and indeed it may have
23 been a very short time after the autopsy, he indicated
24 to me at that time that he had found a subphrenic
25 abcess, that that abscess he felt was related to
the hemiparesis of the diaphragm and that in turn was



1
2 due to the surgery that Amber had had for her
3 congenital heart disease?

4 Q. Yes.

5 A. And at that point in time,
6 very shortly after the autopsy I believe that Dr. Cutz
7 and I felt that we had a cause and a sequence of
8 events which would describe Amber's death.

9 Q. I understand.

10 A. And indeed Dr. Cutz had sent
11 samples away for culture, blood cultures and he had
12 blood cultured I believe the area where he felt he
13 had found an abscess and in my first communication
14 with Mrs. Dawson I was optimistic that we had a reason
15 for Amber's death.

16 Q. Yes, you gave us that
17 evidence and as I understood it Dr. Cutz had said
18 that the abscess may indeed be an important element
19 in the death?

20 A. And not only did I feel
21 that at that time but that was my initial report to
22 the Chief Coroner's office in the form of a report,
23 a written report.

24 Q. Of course, when we get the
25 final autopsy report Dr. Cutz does not apparently
continue to suggest that the abscess may have had



1
2 any significant effect on the matter, does he?

3 A. That is correct. At that
4 point in time what I had was the first part of a
5 sequence of events eliminated from the list.

6 Q. That's right.

7 A. And I then had to address
8 that problem. My feeling at that time was that there
9 was some event that could not be observed by examining
10 the body, be it an arrhythmia or something of that
11 nature. That is why the Death Certificate was filled
12 out the way it was.

13 Q. Did you, when you received
14 the final autopsy report, apply your mind in any
15 way to what further investigation if any could be
16 done?

17 A. At that time Amber was buried
18 and some of the doors were at least if not fully
19 closed very much so.

20 Q. At the time that you received
21 the final autopsy report, did you apply your mind
22 as to what further investigation if any might be done?

23 A. Yes.

24 Q. What did you consider?

25 A. I considered whether it was
possible to do anything more in the way of examining



1
2 Amber or tissues.

3 Q. But as you have told me
4 you did not contact Dr. Cutz to see if there were
5 any samples of any kind left?

6 A. No.

7 Q. Did you at any stage
8 communicate to Dr. Cutz from the time you signed your
9 warrant right through until after your receipt of his
10 final autopsy report, did you at any time communicate
11 to him the concern that Mrs. Dawson had raised about
12 possible drug involvement in the death?

13 A. I can't honestly answer that,
14 Mr. Lamek. I don't know whether I did or whether I
15 didn't. If you will permit me to speculate. I think
16 that I probably did convey that information in my
17 first communication with him but I cannot swear to it
18 and I cannot be certain that I did.

19 Q. You think you may have told
20 him that that question had been raised?

21 A. That we have a mother who
22 is concerned and here are her concerns.

23 Q. All right.

24 A. But I can't swear to it.

25 Q. All right. And then you met



1
2 with Mrs. Dawson, you went through Dr. Cutz report
3 with her?

4 A. Yes, I did.

5 Q. At that stage, did you tell
6 her what you had done to investigate the possibility
7 of drug involvement in her daughter's death?

8 A. I don't believe at that time
9 that drugs came back as a topic of discussion.

10 Q. I take it the answer to
11 that question is no?

12 A. To the best of my knowledge
13 because I can't say yes or no to it because I do
14 not know. I am trying to answer the question in a
15 fair way, both for her and for me. I really don't
16 know whether it became one, but it does not come back
17 to my memory that it was.

18 Q. I think you told me this
19 morning that it was your impression, and certainly
20 your intention, that when Mrs. Dawson had left on
21 July 28th after her meeting with you, she had left
22 with the understanding that her concerns were going
23 to be investigated and dealt with to the extent
24 that they could be?

25 A. Yes.

Q. And certainly you have no



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reason to think that she wanted less than a thorough investigation of her concerns?

A. That's correct.

Q. And in November, mid November, when you spoke to her, I take it you did not say - did it occur to you to say to her, Mrs. Dawson, I know one of the things you were concerned about was possible drug involvement, there really wasn't much we could do to follow that one up.

A. I don't know , Mr. Lamek, whether that was voiced or not.

Q. Although you knew that had been a specific concern of hers?

A. Yes.

MR. LAMEK: Dr. Bunt, thank you.

THE COMMISSIONER: Mr. Brown?

MR. BROWN: I have no questions of Dr. Bunt, thank you, sir.

THE COMMISSIONER: Miss Rae?

MS. RAE: I have no questions, sir.

THE COMMISSIONER: Mr. Young?

MR. YOUNG: No questions, Mr. Commissioner.

THE COMMISSIONER: Miss Thomson?

MS. THOMSON: We have no questions.

THE COMMISSIONER: Mr. Ortved?



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2 MR. ORTVED: I have a few, Mr.
Commissioner.

CROSS-EXAMINATION BY MR. ORTVED:

3 Q. Dr. Bunt, as I understand
4 the function of a Coroner you in effect serve as
5 a public watch dog on death, do you not?

6 A. I guess I'm one of the
7 people that does that as a Coroner. There may be
8 other people involved as Coroners. That is one of
9 our main functions, yes.

10 Q. You are really one of the
11 very critical public functionaries who acts to ensure
12 to the public that there aren't outstanding questions
13 concerning death in the community, isn't that fair?

14 A. Yes, that's fair.

15 Q. And in that capacity you
16 really have a dual function, a function of two levels:
17 firstly, on the individual level, vis-a-vis the
18 personal representatives of the family, correct?

19 A. Yes.

20 Q. And your responsibility in
21 relation to the family members is to be able to
22 address the specific concerns they have about a death
23 in their family?

24 A. Yes.
25



Q. And if we apply that here in relation to Mrs. Dawson your duty and responsibility to her was to address those concerns that she presented to you?

A. Yes.

Q. And then on another level you owe a duty to the public at large, do you not?

A. Yes.

Q. And that duty is to ensure that deaths are followed up, as we have just discussed ?

A. Yes.

Q. And to satisfy the public that there aren't questions left unanswered, correct?

A. Yes.

Q. And to hopefully through your investigation and efforts ensure that other similar deaths to the extent that they can be prevented are prevented?

A. Yes.

Q. Again, if we bring that home to the situation here in question regarding the death of Amber Dawson, if in fact it was a death due to an overdose , to expose that fact and hopefully prevent other such deaths, correct?

A. Yes, broad terms, yes.



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2 Q. So, just dealing with those
3 two responsibilities, or those responsibilities at
4 those two levels if I might and dealing with your
5 responsibility to Mrs. Dawson first, it is clear I
6 take it from your evidence that arising out of that
7 interview with her she had conveyed to you a concern
8 about medication, correct?

9 A. Yes. About drugs, I believe,
10 rather than medication, I don't think we used the
11 word medication.

12 Q. I mean, there is no issue
13 as to the fact that there was a concern about --

14 A. Well, I don't know where
15 the question is going, so...

16 Q. Well, she has a slightly
17 different recollection than you, which has been
18 discussed by others, correct?

19 A. All right.

20 Q. And she is more specific
21 as to the concern that she says she addressed to you,
22 right?

23 A. Yes.

24 Q. Just on that topic. We have
25 heard here that you have had responsibility for
investigating some 8400 deaths, is that right?



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A. Yes.

Q. And I take it that those
would have involved thousands of interviews?

A. Yes.

Q. Of the kind that you had
with Mrs. Dawson?

A. Not thousands like Mrs.
Dawson, no.

Q. Well, hundreds like the one
with Mrs. Dawson?

THE COMMISSIONER: I don't think
Mr. Ortved is asking whether the interview was the same,
it is, whether you have the same sort of situation,
is that not right, where you have a mother or some
close relative complaining about the death of someone,
let us say in a Hospital.

THE WITNESS: Yes, there have been
many, many interviews like that.

Q. And my characterization of
it being in terms of hundreds is probably not very far
wrong?

A. Well, I don't know really
whether it is hundreds or whether it is dozens.

Q. All right. Many of those
types of interviews, many of those interviews of that

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2 type had taken place not just before but since July
3 of 1980?

4 A. Yes.

5 Q. And you have quite candidly
6 conceded you have no notes with which to refresh
7 your memory as to that interview?

8 A. Yes.

9 Q. But whereas you have had
10 many many such interviews, maybe hundreds, I suggest
11 to you that it is not any stretch of the imagination
12 that Mrs. Dawson only had one such interview, right?

13 A. Yes.

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3 Q. And she, as you have
4 described to us, was coherent?

5 A. Yes.

6 Q. Intelligent?

7 A. Yes.

8 Q. And with that in mind
9 that might be some assistance to us in deciding whose
10 version of that interview is to be preferred, the
11 fact that you had so many and she has had one.
12 Is that fair?

13 A. I am not quite sure that
14 I understand your question.

15 Q. I am suggesting to you that
16 having regard to the fact that Mrs. Dawson only had
17 one such interview and you have had so many might
18 serve as some assistance to us in deciding who has
19 a better recall of the detail.

20 A. I don't know. I don't
21 know how to answer that question. I really don't.
22 You are suggesting something to me and I am not quite
23 sure what you are suggesting to me. That she might
24 have a better recollection or that I might have a
25 better recollection?

Q. I am suggesting that perhaps
her recollection might be better.



DD-2

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A. I can't accept that, but
if that is your feeling.

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Q. In any event, out of that
interview, at least, we are clear that there was
a concern as to medication.

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A. Yes.

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Q. And you have described for
us, tend to review what you did in relation to
that particular investigation you conducted. You
attended at the Hospital, you reviewed the chart,
and you thereafter received the autopsy reports,
preliminary and final, and discussed them with
Mrs. Dawson. Correct?

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A. Yes.

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Q. And aside from your
attendance at the Hospital and reviewing the chart,
really what you were doing was serving as an intermediary
between Dr. Cutz and Mrs. Dawson; is that fair?

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A. That is one of my
functions, yes.

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Q. You were basically explaining
to her the findings of the pathologist?

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A. Yes.

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Q. If that is one of your
functions, what else were you doing?

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A. Listening to her, wondering whether she was accepting what I was saying.

Q. All right. I guess that is one of the things I brought under the umbrella of an intermediary. You were translating for her the findings of the pathologist?

A. Yes.

Q. When you were brought into this case, I understand that you were selected personally by Dr. Bennett because it was a serious case.

A. I believe that was so.

Q. That is the impression that you took from the fact --

A. Yes.

Q. -- that it was referred to you specifically by Dr. Bennett?

A. Yes.

Q. You never, on any occasion, met with any of the Staff at the Hospital, other than Dr. Cutz?

A. In reference to this case?

Q. Yes.

A. No.

Q. That is something that you,



DD-4

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in your capacity as a Coroner investigating other
deaths, have done?

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A. Yes.

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Q. You didn't on any occasion
follow up with those persons charged with the
administration of medication; is that correct?

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A. Yes. That is a two way
street.

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Q. Well, I am sorry, you will
have to explain that for me.

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A. They didn't approach me
either, knowing that it was a Coroner's case.

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Q. The people charged with
administering medication did not approach you?

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A. Nobody approached me
from the Hospital about it at all other than
Dr. Cutz, who was not acting for the Hospital or on
behalf of the Hospital.

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Q. Let me just stop there,
because are you suggesting that your function is
somehow analagous to the persons at the Hospital?

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A. No.
Q. You mean it is not in any
way, because --

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A. I am not suggesting it is.



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Q. I am going to tell you why, because you, as a Coroner, are specifically charged with a higher index of suspicion than those in the Hospital; isn't that right?

A. Yes, in this particular case; yes.

Q. So you can't really draw any comfort from the fact that someone at the Hospital charged with administering medication didn't come to you, can you?

A. Only if they were withholding something.

Q. You don't know that unless you go and speak to them, do you?

A. I don't know that unless I go to speak to them or unless they come and speak to me and on occasion they do.

Q. In terms of going to speak to them, you didn't do that in this case?

A. No, I did not.

Q. It is something you have done in other cases that you have investigated?

A. If there is an indication to do so.

Q. If there is an indication



ED-6

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of the medication error or difficulty or overdose
or whatever?

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A. Yes.

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Q. You didn't order any
drug screen?

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A. Yes, that is correct.

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Q. Something that you have
done in other cases?

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A. That is correct.

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THE COMMISSIONER: I am sorry, a
drug screen? Is that what you mean, have you ordered
a general drug screen? What is a drug screen?

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THE WITNESS: A drug screen is a broad,
it is a series of tests to include or exclude groups
of drugs and it would normally be done on cases that
one might expect to discover, such things as use
of marijuana, use of narcotics, use of alcohol, and
that type of thing.

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THE COMMISSIONER: Would it involve
testing of blood?

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THE WITNESS: Would it involve testing the b.
for digoxin? No, it would not.

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THE COMMISSIONER: It would probably
involve taking blood samples, would it not?

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THE WITNESS: It would involve taking



DD-7

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2 blood samples by the pathologist and referring them
3 to the laboratory.

4 MR. ORTVED: Q. Aside from your
5 own attendance to look over the chart, Dr. Bunt,
6 there really was not very much more done in relation
7 to the follow up on this death than would be the
8 case in an ordinary hospital case were an autopsy
was performed. Isn't that right?

9 A. Following my -- to answer
10 you -- I can't answer you yes and no, because at the
11 time I received the information from, the first
12 information from Dr. Cutz we believed we had a lead
13 and at that point there were more things done to
follow up on that lead, yes, there were.

14 Q. Well, this is all on the
15 part of Dr. Cutz, right?

16 A. Responding to my involvement
17 in the case, yes.

18 Q. Aside from your attending
19 to look at the chart, if we leave out of this
20 your dealing with Mrs. Dawson, I am suggesting that
your involvement really ended there.

21 A. In the whole case?

22 Q. Yes.

23 A. No.

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DD-9

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Q. Your input into this investigation.

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A. No. I don't believe my input finished with this investigation until after my discussions with Mrs. Dawson along in November.

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Q. Let's not be wrong now. I am talking about your input into determining the cause of death.

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A. In that sense, yes.

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Q. I am suggesting to you that your input into this investigation, in terms of deciding the cause of death really, for all intents and purposes, comprised your attendance and analysing the chart.

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A. And talking to Dr. Cutz and reviewing with him his findings and discussing with him where he went from there. I consider that involvement. I don't know whether you feel it is or not, but I think it is pretty narrow to suggest that I went and reviewed the chart and wrote out a Warrant and forgot about the issue.

Q. I am not suggesting you forgot about it.

A. Or dismissed it and went about my business. I did not do that.



DD-9

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Q. You mentioned in an answer to Mr. Lamek that you cannot recall, but you may have, in the course of discussing the case with Dr. Cutz, mentioned the mother's concern about medication?

A. Yes.

Q. Certainly it wasn't important enough for you to put in Exhibit 413, your Warrant, was it?

A. No.

Q. In terms of your interpretation that this was a serious case, in what respect was it serious?

A. Certainly serious to Mrs. Dawson.

Q. That is right. Is that the implication you took from Dr. Bennett involving you, that you were brought into this case vis-a-vis Mrs. Dawson, not vis-a-vis the death?

A. The two are inseparable. You can't separate one from the other at all.

Q. Because it seems to me that most of your time devoted to the investigation of the case has been in terms of speaking to Mrs. Dawson, as opposed to following up the death.



DD-10

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2 A. If you are looking at
3 time frames I have no -- I shouldn't say I have
4 no idea. I know I spent considerable time at the
5 Hospital reviewing the chart, talking to Dr. Cutz,
6 writing the Warrant, which obviously is only part
7 of reviewing the chart. I believe I had discussions
8 with Dr. Bennett and, as you have pointed out, I
9 had lengthy discussions with Mrs. Dawson later on.

10 Q. If we can come back to
11 where I commenced in terms of your duties, as a
12 Coroner, and, in particular, your duty to Mrs. Dawson,
13 in relation to the concern that she addressed to
14 you about medication, aside from reviewing the chart,
15 you did nothing?

16 A. About medication -- no, I
17 did not.

18 Q. In terms of that larger
19 public duty, the duty of satisfying the public that
20 questions don't remain outstanding, to the extent
21 that the public had an interest in ensuring that there
22 was no difficulty here regarding medication, again
23 aside from reviewing the chart you did nothing?

24 A. Excuse me, I don't appreciate
25 that, the implications of that question, because I
did proceed to very carefully, with the help of Dr. Cutz,



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DD-11

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try and determine the cause of death.

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Q. Well specific to the subject
of medication.

A. Specific to the subject
of medication? The answer to your question would
be, you are right.

THE COMMISSIONER: Are we going to
proceed now? Miss Kitley, perhaps you could tell
us how long you will be if you will be at all.

MS. KITELY: I won't be at all, no sir.

MR. LABOW: No questions.

THE COMMISSIONER: Mr. Shinehoft?

MR. SHINEHOFT: I have only five
questions to ask this witness.

THE COMMISSIONER: Well now I have
lost track of whose witness this is, I don't know
who is coming - it is his witness, well then you.

MR. LAMEK: I will have nothing more.

THE COMMISSIONER: Mr. Hunt, how long
do you need for reply?

MR. HUNT: Half an hour, I think.

THE COMMISSIONER: I think we will
take 20 minutes now then.

--- (Short Recess)

--- Upon resuming

THE COMMISSIONER: Mr. Tobias, either



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2 you were not here or I did not see you, do you have
3 any cross-examination?

4 MR. TOBIAS: I have no questions of
5 this witness at all.

6 THE COMMISSIONER: Yes. Thank you.
7 Mr. Shinehoft?

8 CROSS-EXAMINATION BY MR. SHINEHOFT:

9 Q. My name is Jack Shinehoft.
10 How long have you been a Coroner, Doctor?

11 A. I was appointed early in
12 1962.

13 Q. So until the time of
14 Amber Dawson's death, that would have been what,
15 20 years?

16 A. Roughly, yes.

17 Q. And during those 20 years,
18 Doctor, approximately how many cases would you have
19 been involved in in your capacity as a Coroner?

20 THE COMMISSIONER: I think we have heard
21 all of that Mr. Shinehoft.

22 Q. Just approximately.

23 A. 8,400 now, so I would have
24 to take one-fifth off, I would think, something around
25 6 or 7,000 cases.

Q. You listed a cause of death



EE-3

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2 in your report on Amber Dawson, and again would you
3 repeat what you indicated was the cause of death?

4 THE COMMISSIONER: The immediate
5 cause not determined, it is all in Exhibit 414.

6 THE WITNESS: The immediate cause of
7 death not determined, underlying causes hemidiaphragm
8 paralysis, congenital heart disease.

9 Q. Had you ever had in the
10 course of your involvement as a Coroner that type
11 of a diagnosis, that kind of a report as to cause
12 of death previous to this?

13 A. Yes.

14 Q. You had?

15 A. Yes.

16 Q. Would that be a fairly
17 common type?

18 A. Not common, but not
19 uncommon either.

20 Q. I was interested, Doctor,
21 when you said that not knowing the cause of death
22 is not necessarily the reason to conduct an inquest;
23 do you recall saying that?

24 A. Yes.

25 Q. Again, you said that that
is not that infrequent, or uncommon, when you



EE-4

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2 really don't know the cause of death of a particular
3 child?

4 A. That is true.

5 Q. Would that be in say
6 10 per cent of your cases, or 20 per cent of your
7 cases?

8 A. Not that high. I would
9 be guessing, I could come up with an answer if I
10 was permitted to review my cases, but it is not
11 something I would - a small percentage of cases.

12 Q. And in those small
13 percentage of cases do you ever have an inquest held
14 were you cannot determine the cause of death?

15 A. Not being able to determine
16 the cause of death, as I said, was not an important
17 factor in ordering an inquest. It might be a factor,
18 but it would not be necessarily an important factor.

19 Q. So there would be other
20 factors that you would have to have in addition to
21 not knowing the cause of death that would have led
22 you to the conclusion that an inquest would have
23 been a proper course of action as far as the death
24 of Amber Dawson is concerned?

25 A. Yes. That is correct.

Q. And none of these elements



EE-5

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were present as far as you were concerned?

A. No, not at the time that I made that determination.

Q. But subsequent to that were there facts in the case that would have led you to come to that conclusion?

A. The fact that there has not been an inquest leaves the option open.

Q. So, you are saying as of today's date there could still be an inquest into that child's death?

THE COMMISSIONER: I think we have filled that gap.

Q. Is that what you are saying, Doctor?

A. I am saying that is a possibility.

THE COMMISSIONER: The first recommendation in my report is that there be no inquests done on any of these children.

THE WITNESS: Thank you, Mr. Commissioner.

MR. SHINEHOFT: Thank you, Doctor, those are the questions I had.

THE COMMISSIONER: Yes. All right. Have you changed your mind?



RE-6

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2 MR. LAMEK: No, I have not, sir.

3 THE COMMISSIONER: Thank you. Mr. Hunt?

4 RE-DIRECT EXAMINATION BY MR. HUNT:

5 Q. Sir, I just want to pick
6 up on something that my friend, Mr. Ortved, developed
7 and then left rather quickly. You indicated that
8 you have on other occasions had medical personnel
9 from hospitals come forward with information when
10 you are conducting a Coroner's investigation.

11 A. Yes.

12 Q. And when you say that, do
13 you mean that they have done that on an unsolicited
14 basis?

15 A. Yes.

16 Q. And do the medical personnel
17 who have done that on other occasions include doctors?

18 A. Yes.

19 Q. And nurses?

20 A. Yes.

21 Q. And on the occasion when
22 you went into the Hospital on July 28th to check the
23 chart of Amber Dawson, I take it it was no secret
24 that Amber Dawson was a Coroner's case either that
25 day or very shortly after that?

A. I believe that was fairly



EE-7

1
2 common knowledge in the Hospital.

3 Q. And you, sir, at that time
4 were treating this as a single isolated death
5 requiring investigation?

6 A. I was.

7 Q. And you have indicated
8 that no one came forward in this particular case
9 from the medical personnel, doctors or nurses,
10 voluntarily with any answers and information, is
11 that right?

12 A. That is correct.

13 Q. As of the end of July then,
14 did you know that Amber Dawson represented the fifth
15 death on Wards 4A/4B in less than a month?

16 A. I had no idea of that.

17 Q. Did you know from any
18 source at that time that as of the end of July, and
19 we have heard from a number of witnesses here,
20 including senior personnel amongst the nursing staff,
21 and I will just refer to the names, we have heard
22 from Mary Costello, Lynn Johnstone, Mary Coulson,
23 Bertha Bell, that by the end of July there was an
24 atmosphere of concern amongst those personnel, the
25 nursing personnel, senior nursing personnel, about
the unexplained increase in the number of deaths on



FE-8

1
2 the wards from the end of June to the end of July?

3 A. I had no idea of that,
4 no information to that effect at all.

5 Q. That wasn't made known to
6 you at the end of July when you went in to do your
7 investigation, or even into August at all when
8 you were waiting for the report from the pathologist?

9 A. That's correct.

10 Q. Now are you able to tell
11 us, and maybe you can't, but if you can we would
12 appreciate your help. Are you able to tell us if
13 you had been made aware, when you went in to
14 investigate what you thought was a single, treated
15 rather as a single isolated occurrence, the death
16 of Amber Dawson, that there was at that time a
17 concern amongst, certainly the senior nursing personnel
18 in any event, of an unexplained increase in the
19 number of deaths in the one month period prior to
20 Amber Dawson's death. Can you tell us whether that
21 would have impacted on you in any way?

22 THE COMMISSIONER: Yes, Miss McIntyre?

23 MS. MCINTYRE: Before asking this
24 question and before having it answered, I would suggest
25 that Mr. Hunt has to establish whether any of the
nurses would have known that Dr. Bunt was in the Hospital,



1
2 or had any opportunity to speak to him.

3
4 MR. ROLAND: I have a problem, as well,
5 Mr. Hunt says unexplained deaths.

6 MR. HUNT: I said unexplained increase.

7 MR. ROLAND: Well, that is not
8 accurate, there were explanations given for all of
9 these deaths, whether the correct explanation or
10 not, certainly apart from Dawson or at least in most
11 of the deaths there were medical explanations at the
12 time and explanations when they reviewed them as well.
13 So when he says unexplained it is not fair to the
14 people who were in the Hospital at the time to
15 characterize that.

16 THE COMMISSIONER: Well surely though
17 he is allowed to put the question, he is allowed
18 the question. He is not allowed to put the question
19 in a way that doesn't represent that facts. We have
20 heard so much evidence about so much concern that
21 people were having around the Hospital and the nurses,
22 and the doctors were telling them that everything was
23 all right.

24 MR. ROLAND: There was concern no doubt
25 about the increase in deaths, and there was concern
about increase in deaths, but Mr. Hunt doesn't say
that, he says concern about unexplained increase in



EE-10

1
2 deaths and that is not fair. If he says increase
3 in deaths that is one thing.

4 THE COMMISSIONER: Well you see before
5 we get too excited about it, this is almost a
6 purely hypothetical question. The hypothetical
7 question as the owner is only as good as the hypothesis.
8 So, if the hypothesis is wrong you can always ask
9 him to disregard the answer. Surely let him, as
10 long as it is somewhat close to what we have heard
11 rather than go back and study all of the evidence
12 and have it precisely. I have your point. I know
13 that the nurses were reassured by the doctors that
14 all of these deaths were natural.

15 MR. ROLAND: Mr. Commissioner, I would
16 have thought today after 140 odd days of evidence
17 and the experience we have had about this Commission is not
18 to permit the hypothetical, it does not accurately
19 reflect the evidence because the damage done to
20 everybody and to this process --

21 THE COMMISSIONER: Yes, there is
22 something in that.

23 MR. ROLAND: It is because of hypotheticals
24 that are not founded on fact that we have had all
25 the problems. I think it is time not to permit those
kinds of questions.



EE-11

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2 MR. HUNT: To save time rather than
3 respond let me drop the word, 'I'll explain'.

4 THE COMMISSIONER: I think that is
5 good.

6 MR. HUNT: Because we are only at
7 the end of July in this part of the hypothetical.

8 THE COMMISSIONER: If there had been
9 an increase in deaths.

10 MR. HUNT: Right.

11 THE COMMISSIONER: Which had caused
12 some concern.

13 MR. HUNT: Among certainly, at least
14 the senior nursing personnel.

15 THE COMMISSIONER: And all of that
16 is correct, is it not Ms. McIntyre and Mr. Roland?
17 There had been in increase in deaths and there had
18 been concern among the nurses.

19 MS. MCINTYRE: I think there was
20 certainly concern among the nurses, particularly
21 with respect to the Dawson death, it was the one
22 they were referring to.

23 THE COMMISSIONER: I think there was
24 a concern more than just in the Dawson death. There
25 was concern about the Woodcock death, and I think
concern certainly about the Taylor death. At any



FE-12

1
2 rate, there was concern, which were the ones that
3 were in the first review, do you remember?

4 MR. HUNT: The first review, Dawson,
5 Taylor, Turner.

6 THE COMMISSIONER: Turner is afterwards.

7 MR. HUNT: Turner, I don't know, sir.

8 THE COMMISSIONER: All right.

9 MR. HUNT: Let me just rephrase it
10 then.

11 THE COMMISSIONER: Rephrase it, start
12 again at the beginning with this question.

13 MR. HUNT: Q. Sir, if you can tell
14 us, if you had been made aware, because this is just
15 at the end of July when you first went into the
16 Hospital, that amongst the senior nursing personnel
17 at the very least there was concern about the increase in
18 deaths over the prior months on the Wards 4A/B where
19 baby Dawson died. Are you able to say whether that
20 would have had any effect on you at that point in
21 time?

22 MS. MCINTYRE: I'm sorry to rise again,
23 but I still have a problem with this time frame where
24 you say senior nurses, clearly the concern was at
25 the staff level.

THE COMMISSIONER: I think you are right.



7B-13

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2 I think you are right the concern was more among
3 the nurses on the ward.

4 MR. HUNT: I am counting Coulson
5 and Johnstone as nursing supervisors that is senior.

6 THE COMMISSIONER: Yes, but were they
7 concerned at the time?

8 MR. HUNT: Oh, yes. I can point to
9 the pages if my friend wants them. When Lynn Johnstone
10 returned from her holidays in July, she was told about
11 the increase in deaths by Coulson and you will find
12 that in volume 103 --

13 THE COMMISSIONER: What time was that?

14 MR. HUNT: This is when she returned
15 from her holidays in July.

16 THE COMMISSIONER: Yes.

17 MR. HUNT: She was informed by Coulson
18 about her concern over the increase in deaths and
19 that is volume 103, page 3472-3476.
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BM/hr 1

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THE COMMISSIONER: Well, I'm not sure--
yes.

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MR. HUNT: Q: Coulson by July of 1980
had observed the pattern that the deaths were at night
and in the presence of this same team, Volume 106,
page 4115 to 4119; Costello. I mean, I can go on
and give all the references if my friend wants but I will
stick to senior nursing personnel.

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MS. McINTYRE: Well, senior nursing
personnel would seem to suggest, Sir, the Director
of Nursing, the nursing office

MR. HUNT: Oh, I'm sorry.

THE COMMISSIONER: What about the middle
level, middle and the lower level too.

MS. McINTYRE: It is actually very
important, Sir, because if you recall, Coulson and
Johnstone were only the night shift and I assume
Dr. Bunt didn't work the night shift, he was not in
the Hospital on the night shift?

MR. HUNT: I am just trying to find
out whether anybody who with all this concern thought
might not be important to come before her and let her know

THE COMMISSIONER: Never did anyone
have a better chance to consider an answer. There
was concern among nurses, some of whom were at the



1
2 middle level; how is that? If you had been informed
3 about that would it have made any difference in your
4 activity?

5 MR. HUNT: This is just at the end
6 of July, we haven't got past that point yet.

7 THE WITNESS: A: If anyone at the
8 Hospital had suggested to me that there was some
9 other dimension to the investigation that I was
10 carrying out I would have been obliged to consider
11 that and if that involved other deaths I would want
12 to know which deaths were being considered, whether
13 they had been investigated by the Coroner's Office
14 and if not it would be appropriate for me to review
15 the charts or consider that as a dimension to my
16 investigation, yes.

17 Q. All right. Well, you have
18 indicated you were treating Amber Dawson as a single
19 and isolated event when you went into the Hospital
20 late July to investigate?

21 A. That's true.

22 Q. When you say if you had
23 been alerted by anybody, nurses or doctors, that there
24 was any other dimension to this problem then your
25 response to it would have had to incorporate that
other dimension?



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A. Yes.

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Q. And I take it you would have

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been interested in what the concern was?

5

A. Yes.

6

Q. All right. Well, let's move

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ahead a bit. You got the final autopsy report on
Amber Dawson in mid October?

8

A. That's correct.

9

Q. And you at that point set up

10

a discussion with Mrs. Dawson for some time in early
to mid November?

11

A. Yes.

12

Q. And in the interim you were

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formulating your assessment and of course waiting to
speak to Mrs. Dawson?

14

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A. Yes.

16

Q. And you were considering

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what the results of the post mortum examination were?

18

A. Yes.

19

Q. All right. Did any of the

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good doctors or nurses at the Hospital at any point
up to the end of October advise you that by this
point in time there had been sixteen deaths on Wards
4A and 4B since the end of June?

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22

23

A. No one had spoken to me. The

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1
2 only contact I had at Sick Children's was Dr. Cutz.

3 Q. All right. Now, we have
4 heard from a number of the same middle management
5 nurses and as well some of the regular troops that
6 by this point in time by the end of --

7 THE COMMISSIONER: You are mixing
8 up your metaphors there somewhere.

9 MR. HUNT: Pardon?

10 THE COMMISSIONER: You are mixing your
11 metaphors. Troops are military.

12 MR. HUNT: Yes.

13 THE COMMISSIONER: And the other ones
14 are civilians.

15 MR. HUNT: Oh, I'm sorry. All right,
16 let me avoid the metaphors. I think you understand
17 what I mean. The nurses who were responsible for
18 keeping charge of the other nurses who were on the
19 floor, they were all by this point in time coming to
20 certain conclusions. I shouldn't say all, that's an
21 overstatement but I can give you the page references
22 and numbers. We have Nurse Browne by the end of August
23 she was aware of deaths at night. The increase in
24 deaths was at night and confined to a single team.
25 By August or September the same Nurse Costello realized
that the deaths were at night, restricted to a single



1
2 team; Nurse Bell was aware they were concentrated to
3 a single team at night; Nurse Johnstone again a single
4 team at night; Nurse Coulson aware of the timing of
5 deaths at night and a single team by the end of
6 October; Nurse Radojewski aware by September the
7 deaths were on the same team in the early hours of
8 the morning; Nurse Scott aware of the presence of
9 the same team on deaths occurring by the end of
10 August.

11 I take it you weren't make aware by
12 any of the doctors or nurses that that was a pattern
13 or feature of death on the ward that had been observed
14 by that point in time?

15 A. No one contacted me at all.

16 Q. Well, were you aware that
17 as a result of the concern the doctors had set up
18 not one but two morbidity and mortality reviews since
19 September, the month of September to consider some
20 of the nurses concerns about the increase in deaths
21 on the wards?

22 A. I knew nothing of that.

23 Q. Now, we have also heard
24 evidence here that by the end of October the stress
25 that had been created by the increase in deaths from
the end of June through to then had lead to discussions



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about splitting up one of the nursing teams, the one that had been observed in whose presence the deaths were occurring, were you aware of that?

A. Not at all.

Q. Were you aware that the stress by the end of October was so great that there had been discussions about providing psychiatric counselling for the nurses?

A. I had no indication of any of that.

Q. All right. So, all of this day to day life on the ward and the problems created by the increase in deaths, none of the doctors approached you with any of that information?

A. No.

Q. Nor did the nurses?

A. No.

Q. So, this was not one of these fortunate situations that you had experienced in the past where people came forward unsolicited with information for you to consider?

A. That is correct.

Q. Well now, let me just put it to you that hearing all of that and in mid October you, Dr. Bunt, are considering Amber Dawson and



1
2 the post mortem examination of Amber Dawson as still
3 a single isolated event?

4 A. Absolutely.

5 Q. And had you been made aware
6 of the features of life at the Hospital and on the
7 ward that I have just advised you of up until the
8 point in time when you were considering the post
9 mortem report in connection with the single isolated
10 death, how, if you are able to tell us, would that
11 have affected you?

12 A. It would have put a completely
13 different complexion on the case that I was investigating.

14 Q. In what sense?

15 A. Instead of investigating
16 a single isolated case of death at Sick Children's
17 I would have been informed of the concerns and as
18 a result of that would have been obliged to enlarge
19 the investigation to include those cases which would
20 have been expressed as cases of concern to me.

21 Q. Well, would you have done
22 all this on your own?

23 A. No.

24 Q. Or would there have been
25 other people that you might have talked to?

A. I could not have done that



1
2 on my own, I would have to go directly to my superior
3 and informed him of the information that had been
4 made available to me. On the basis of that approach
5 I would have said to him I'm sure, I have to do more
6 now, Amber has been buried but we have to seriously
7 consider what will be necessary to throw more light
8 on this case with the information that we now have
9 or will be able to glean.

10 Q. So, all through the piece
11 being unaware of all the information that I have
12 referred to, and that's just a summary of some of
13 the things we have heard, you were acting by yourself
14 without this knowledge, treating this as a single
15 isolated event?

16 A. Yes.

17 Q. And the first time when it
18 struck you that this maybe more than a single isolated
19 event was when?

20 A. Was when the issue became
21 somewhat common knowledge at the Coroner's Office.
22 Now, I can't give you a date but there was a time
23 when information was available to some of the Coroners
24 at the Coroner's Office that there was something
25 amiss at Sick Children's.

Q. Was this in March when we



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have heard that Dr. Tepperman, who is a Coroner?

A. Yes.

Q. Was informed of digoxin levels in both Kevin Pacsai and Janice Estrella?

A. Yes.

Q. And immediately called a meeting at which the homicide officers were invited to attend?

A. Yes.

Q. That came along in March you say?

A. I'm not sure of the dates but in that time frame, yes.

Q. And if your information as of October when you were trying to work through this post mortem report had contained as a base the information that I made you aware of here today, are you able to indicate what meetings might have been held at that point in time?

A. I would have met with Dr. Bennett because he was at that time the contact that I had in respect of the Amber Dawson case and I would have sat down with him and said, here I have some additional information about a serious, what could be a serious situation in respect of the case I am



1
2 investigating but it may have other ramifications
3 and I will need assistance, I can't ignore this, I
4 will need either authority to investigate some of
5 these myself or have other Coroner's involved and
6 quite possibly other facilities, police, et cetera,
7 made available.
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Q So we may have to speculate as to whether the Homicide officers would have been called in then, but we certainly know that in March when two cases were drawn to a coroner's attention, the Homicide officers were in the very next day?

A Yes.

MR. HUNT: Thank you. Those are all the questions I have.

THE COMMISSIONER: All right, thank you.

MR. ROLAND: Mr. Commissioner, I didn't cross-examine this witness. In fairness, Mr. Hunt has brought out some things that weren't brought out in chief and I didn't have an opportunity to ask this witness about this last line of questions. I would like to ask him a couple of questions about it.

THE COMMISSIONER: Yes. I will come back to Mr. Hunt afterwards and I hope it won't, the interchange will not last longer than 5 o'clock.

CROSS-EXAMINATION BY MR. ROLAND:

Q Just a couple of questions.

Doctor, my name is Ian Roland and I act for the Hospital.

You didn't investigate the Laura Woodcock death did you?



Q

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A. No, I did not.

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Q. And you didn't investigate

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Velasquez' death either, did you?

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A. No.

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Q. Did you know about those two

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deaths during your investigation of the Dawson case?

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A. No, I didn't.

9

THE COMMISSIONER: Velasquez was

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after.

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MR. ROLAND: Yes, but it was during

his investigation.

12

THE COMMISSIONER: Yes.

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MR. ROLAND: That is what Mr. Hunt

14

is talking about. He takes it as far as October or

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November. He didn't know about either of those two
deaths, did you?

16

A. No, I did not.

17

Q. But you now know both of those

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were reported to the Coroner's office. You don't
know that today?

19

A. I know through the media, yes.

20

Q. So that I take it in the

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Coroner's office, itself, there is no system of

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correlating these deaths in any way reported from a

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single institution to see if there is some sort of

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pattern. There certainly wasn't with the Woodcock or the Velasquez case that were both reported.

A. That is a question I can't answer. I don't know whether there is or is not.

Q. They certainly weren't brought to your attention, were they?

A. No, they were not.

Q. And if some nurses had said to you well, we are a little concerned about the increase in the number of deaths, I take it before you got much further in any kind of investigation you would want to talk to the doctors, who were in charge of those babies, to determine what their views are or were as to the causes of death?

A. Are you asking me now what the process would be of my investigation?

Q. Yes. Mr. Hunt is saying to you well, if these nurses had come to you or mentioned it to you that they were concerned about an increase in the number of deaths --

MR. HUNT: Or doctors.

MR. ROLAND: Q. Or doctors -- increase in number of deaths, you would want to find out from the treating physicians what they viewed was the cause of death. Isn't that right?



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A. The first thing I would want to
know is names.

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Q. Yes.

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THE COMMISSIONER: You don't do that
around here.

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THE WITNESS: Mr. Commissioner, until
I have a name I don't have a coroner's case reported
to me.

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THE COMMISSIONER: All right. That
is an in joke.

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11

THE WITNESS: I don't seem to be a
part of many of the in jokes around here.

12

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MR. ROLAND: Q. Having obtained the
name I gather one of the first things you do is go
to the treating physician and find out who that was
and determine what that physician's view was concerning
the condition of the baby and what his view was, as
to the cause of death?

15

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A. That would be one of the
processes of investigation, yes.

19

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Q. That would be early on, I
gather, in the investigation, wouldn't it?

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A. It might or it might not be.

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Q. And if there was an autopsy
on the infant you would want to determine from the

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pathologist what the autopsy report said?

A. That would be one of the
processes, yes.

Q. Yes. And having looked at
those you would also want the view of an expert in
paediatrics, and perhaps paediatric cardiology, as
to the condition of the baby, as shown in the chart,
as disclosed by the treating physician and, as
analyzed by the pathologist, wouldn't you?

A. That would be part of the
process, yes.

Q. And those individuals, some
of the best experts in the city, are at The Hospital
for Sick Kids', aren't they?

A. Yes.

MR. ROLAND: Thank you.

THE COMMISSIONER: Mr. Hunt?

MR. HUNT: No, thank you.

THE COMMISSIONER: All right. I
thank you, Doctor.

--- Witness withdraws

THE COMMISSIONER: Do you want to
tell us, Mr. Lamek, what is in store?

MR. LAMEK: Mr. Commissioner, as a
result of a number of telephone calls and so on we



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2 have decided that next week we will call Dr. Kantak
3 and we hope he will be here on Monday, but he may not
4 be here until Tuesday. All I can do is to let
5 counsel know tomorrow. We should have the information
6 by then and Dr. Kantak will be the last of the
7 witnesses to be called by Commission Counsel in
8 Phase I.

9 THE COMMISSIONER: All right. Can
10 you estimate, would he be longer than a day that you
11 anticipate?

12 MR. LAMEK: Miss Cronk will be
13 leading the evidence. Perhaps she can speak to that.

14 MS. CRONK: I certainly would hope not.
15 I would not expect it would take longer than that.

16 THE COMMISSIONER: Monday or Tuesday.
17 I think all anybody can do then is call in, because
18 if we don't have Dr. Kantak on Monday we won't have
19 anyone on Monday and we won't be sitting on Monday.

20 Now, unless, of course, someone has
21 a witness that he wants to call and will agree to
22 calling -- can you help us, Miss Rae, as to whether
23 you intend to be calling any witnesses?

24 MS. RAE: I am afraid, Mr. Commissioner,
25 that we are still not in a position to advise you.
There is still a possibility that we will wish to



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make a request to you to call a witness, but we are
not quite certain at the moment.

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THE COMMISSIONER: Yes, all right.

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Mr. Shanahan, you are not calling any witnesses?

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MR. SHANAHAN: No, sir, no witnesses.

7

THE COMMISSIONER: Mr. Tobias?

8

MR. TOBIAS: At the present time I
have no intention to call any further witnesses, sir.

9

THE COMMISSIONER: Mr. Labow?

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MR. LABOW: Only to reserve the right
of speaking to the two doctors that I understand are
on vacation.

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THE COMMISSIONER: You have no
immediate intentions?

14

MR. LABOW: No immediate plan.

15

THE COMMISSIONER: Now, Miss McIntyre?

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MS. MCINTYRE: We do propose to
call a witness.

17

18

THE COMMISSIONER: Yes.

19

MS. MCINTYRE: And her name is
Dr. Marion McGee.

20

THE COMMISSIONER: Marion?

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MS. MCINTYRE: McGee, M-c-G-e-e. She
is the Dean of Nursing at the Health Sciences Centre
at the University of Ottawa and we propose to call

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her as an expert nursing witness.

THE COMMISSIONER: What is she going to tell us?

MS. McINTYRE: Okay. Sir, as I understand it, we have the right, as a party with standing under Section 5(1) to call a witness subject to certain conditions.

THE COMMISSIONER: The only condition is that it has to be in your interest.

MS. McINTYRE: The evidence has to be relevant to the issues before you.

THE COMMISSIONER: Relevant to your interest.

MS. McINTYRE: And relative to our interests, sir.

THE COMMISSIONER: Yes.

MS. McINTYRE: The third condition I take it, is that she be available next week.

THE COMMISSIONER: Well, I suppose that is a practical one; yes.

MS. McINTYRE: Yes. On the third condition I can satisfy you easily I think.

THE COMMISSIONER: She is available?

MS. McINTYRE: She is indeed available next week.



GG.9

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THE COMMISSIONER: That is certainly --

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MS. McINTYRE: That is the easy one.

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THE COMMISSIONER: It doesn't matter,

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but --

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MS. McINTYRE: I have the Public
Inquiries Act here, sir.

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THE COMMISSIONER: it is relevant
to his interest, isn't it?

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MS. McINTYRE: "A commission shall
accord to any person who satisfies
it that it has a substantial direct
interest in the subject matter of
its inquiry, an opportunity during
the inquiry to give evidence and to
call and examine or to cross-examine
a witness personally or by his
counsel on evidence relevant to his
interest."

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THE COMMISSIONER: Yes. All right.
Then tell me what way is her evidence, what is her
evidence, first of all, and how is it relevant to
your interest?

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MS. McINTYRE: Her evidence has been
heard here, sir, about situations occurring amongst
the nursing staff on Wards 4A/B, which have been



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2 characterized as suspicious or improper and, there-
3 fore, confirmatory of wrongful conduct. Examples
4 are, first of all, the dispute between Susan Nelles
5 and Phyllis Trayner about whether a Code 23 or 25
6 should have been called on Dawson.

7 Secondly, the dispute between Nelles
8 and Trayner about which kind of pacemaker was required
9 for the Hines baby.

10 Third, the administration of
11 medication by Trayner to Baby Miller, in which case
12 it was signed off by Susan Nelles and not by Trayner.

13 Fourthly, the fact that Phyllis Trayner
14 drew out gentamicin in a syringe, prior to having it
15 checked by Susan Nelles in the Miller case.

16 Fifth, the fact that Bertha Bell
17 placed no particular significance on seeing Phyllis
18 Trayner administering an IV medication to Miller.

19 THE COMMISSIONER: I am sorry, what
20 is that? She placed no significance on it?

21 MS. MCINTYRE: Yes.

22 THE COMMISSIONER: I am sorry, how
23 does that affect me one way or the other that she
24 placed no significance?

25 MS. MCINTYRE: There was a great
deal made, sir, in the evidence to the fact that she



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did not place significance on it at the time, therefore, the evidence didn't come out at the preliminary inquiry, et cetera.

THE COMMISSIONER: Is your witness going to say she should have placed significance on it?

MS. McINTYRE: Perhaps, sir, if you would allow me to proceed.

THE COMMISSIONER: Yes, all right. I am sorry.

MS. McINTYRE: Sixth. That nurses predraw medications in anticipation for arrests.

Seventh. That a team leader would perform certain procedures for a baby assigned to a team member and the last example, there is evidence with respect of the role of nurses in questioning the cause of death of patients under their care.

There was a great deal of questioning of nurses on these issues and an attempt by counsel to characterize the reactions of nurses, presumably relevant to the issues before you.

The primary purpose of calling Dr. McGee would be to review these and other examples of nursing practices to establish that rather than being suspicious they are consistent with perfectly normal nursing practice.



GG.12

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2 One of the difficulties, in assessing
3 this evidence, will be the imposition of non-nursing
4 expectations on the way in which nurses function. So
5 our submission will be helpful to this Commission to
6 have the benefit and the testimony of a nursing
7 expert on these matters.

8 Now, with respect to whether or not
9 this evidence is relevant to our interest --

10 THE COMMISSIONER: Yes.

11 MS. McINTYRE: -- we would submit
12 that these issues are relevant to our interest and
13 to those of our clients, both individual and the
14 Association, because normal nursing practice and
15 behaviour has been characterized before this
16 Commission and before the public through the media
17 as being suspicious or improper. It is essential
18 to the interest of our clients that we call this
19 evidence.

20 THE COMMISSIONER: Remember, it is
21 your interest and the Inquiry?

22 MS. McINTYRE: Yes.

23 THE COMMISSIONER: How is it your
24 interest and the Inquiry? If you want to call all
25 of these actions are perfectly normal actions --

MS. McINTYRE: Yes.



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THE COMMISSIONER: That I gather?

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MS. MCINTYRE: Yes.

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THE COMMISSIONER: Somebody has characterized them as something else and I don't say that I agree with any of that, because a lot of the things that have been done here I won't have an awful lot of difficulty with in characterizing them as perfectly innocent. Some of them may be slightly more, but why is it of importance to you to establish their innocence and not indicative of something more sinister?

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MS. MCINTYRE: Well, sir, we feel it is in our interest to take a particular point of view on what the evidence reflects, as to whether it reflects something innocent or otherwise. As presumably, all counsel before this Commission will be making argument to you on that matter and, therefore, it is in our interest.

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Secondly, it is in our interest in that the actions of nurses, including our clients, have been characterized or attempts have been made to characterize those as improper or suspicious and in that sense we have an interest in establishing that they are not.

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THE COMMISSIONER: You see, the



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thing that I find difficult about all of this is
that none of these reflect upon your client, as far
as your clients' -- as far as I know. They may
conceivably reflect upon the members of the team.
Isn't that right? Do they reflect upon your clients?

MS. MCINTYRE: They reflect on our
clients. I gave you one example involving Bertha Bell
that does certainly reflect on Bertha Bell.

THE COMMISSIONER: That was one I
had the greatest trouble with.



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THE COMMISSIONER: That is the one I have the greatest trouble with. How does it reflect upon Bertha Bell? I didn't notice that anybody suggested that Bertha Bell should have been suspicious seeing, if she did, Phyllis Trayner with the syringe at Allana Miller's bedside.

MS. McINTYRE: Sir, with respect, I had thought from reading the transcripts that there was a great deal made of the fact that she did not put enough significance on that that she witnessed.

THE COMMISSIONER: That would be Phase II that you are now talking about; this is to tell the police about it?

MS. McINTYRE: Or to give the evidence at the preliminary inquiry, et cetera.

THE COMMISSIONER: No, I am not enquiring into whether Bertha Bell did or did not do the right thing. What I am enquiring into now at this point in Phase I is the cause of death of the children.

MS. McINTYRE: That's right. Presumably you are taking into consideration, sir, the fact that these various conflicts and various other things I have referred to took place. Argument is going to be made to you, sir, that there is something suspicious



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2 or improper about that.

3 THE COMMISSIONER: What is improper
4 about Bertha Bell seeing this and not telling anyone
5 at the time or being concerned? Even if she did,
6 what she did or didn't do has nothing to do with
7 the cause of death.

8 MS. McINTYRE: Hopefully not.

9 THE COMMISSIONER: What she saw or
10 didn't see may have something to do with the cause of
11 death. Her failure to report it has nothing to do
12 with the cause of death but it might conceivably have
13 something to do with Phase II, if we ever get around
14 to Phase II.

15 MS. McINTYRE: One would wonder why
16 it came up each time, why so much time was spent by
17 counsel on the issue.

18 THE COMMISSIONER: I am with you
19 entirely. I often have wondered throughout this
20 whole proceeding how much time was spent by counsel
21 on a lot of these matters. However, I had better stop
22 before I get into trouble.

23 MS. McINTYRE: Sir, the evidence is
24 relevant to me and if we do not have an interest in --

25 THE COMMISSIONER: What is your
witness going to say? Your witness is going to say



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there is nothing strange about her seeing this and not telling anyone at the time? Is that what she is going to say?

MS. McINTYRE: Well, let's talk about another example.

THE COMMISSIONER: All right.

MS. McINTYRE: Which is, for example, the signing-off of the medication.

THE COMMISSIONER: By one over another?

MS. McINTYRE: Yes.

THE COMMISSIONER: I asked all of her superiors whether this was proper or not.

MS. McINTYRE: Yes. So, presumably, it is relevant evidence then. Sir, we have not heard from the Director of Nursing at the Hospital or any of what I would call the senior nurses, and this woman who we propose to call is the Dean of Nursing --

THE COMMISSIONER: Is she is going to tell me that it is proper for one nurse to sign for another nurse to administer it?

MS. McINTYRE: I hope she isn't -- she is going to be able to put it in context for you, sir, what significance or weight you should attach to that fact.

THE COMMISSIONER: There is absolutely



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2 no evidence, there is no evidence against the proposi-
3 tion, first of all, that one o'clock dose that Allana
4 Miller was administered by Mrs. Trayner and was signed
5 off by Susan Nelles. I may not think much of that
6 procedure but that really has nothing to do with the
7 cause of death, does it? The reason I was questioning
8 it was that I was in some doubt as to whether it
9 really happened, but now there is no evidence whatso-
10 ever that it didn't - both Susan Nelles and Phyllis
11 Trayner say it took place. So, there is no
12 conceivable way I could suggest it didn't.

13 MS. McINTYRE: Well, certainly it did
14 happen. The question is what significance should be
15 placed on that.

16 THE COMMISSIONER: What significance
17 can I put on it except for the fact it is kind of
18 sloppy usage? Is there anything else?

19 MS. McINTYRE: I gathered from other
20 counsel that they were characterizing that as being
21 somewhat suspicious. May I add, with respect --

22 THE COMMISSIONER: What are they
23 characterizing the fact that it happened or character-
24 izing the fact that it really didn't happen?

25 MS. McINTYRE: No, no, the fact that
it happened. There is no question that it did happen.



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THE COMMISSIONER: All right. What I am getting at, Miss McIntyre, I don't want to spend a week, as we might well, with this nurse if she comes in here concerned about matters that I can't report on, that I can't do anything about. If she is going to come -- she can't tell us anything about the cause of death at all. All she can tell us about is something about nursing practice and you will try to link those somehow with the nursing image or something of that nature.

MS. MCINTYRE: Sir, you have been hearing a great deal of evidence over the last five months with respect to nursing practice and various counsel have been trying to characterize it in various ways.

THE COMMISSIONER: Will that help us discover what really took place? That was the purpose of it.

MS. MCINTYRE: Well, sir, if the conduct in question isn't going to help you discover what took place, again I would ask why counsel spent so much time on the discussion between Phyllis Trayner and Susan Nelles as to whether it should be --

THE COMMISSIONER: Just a moment, Miss McIntyre. Mr. Roland, are you going to oppose



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this or not?

MR. ROLAND: Well, I am, yes, Mr. Commissioner, on a number of points.

First, really, this is a question of proper nursing practice, and proper nursing practice is really not --

THE COMMISSIONER: I agree with you on that. I just wanted --

MR. ROLAND: On Miss McIntyre's point, on every one of her points - and I'm not sure that I got them all, but at least on the first four or five she is dealing with issues that occurred between Susan Nelles and Phyllis Trayner. She doesn't have to deal with that. It seems to me she is way beyond the mandate that she has for acting for the people that she does. In dealing with some disputes or events that occurred between those two, we have heard from both of them.

THE COMMISSIONER: Yes.

MR. ROLAND: They have given us by and large a consistent account of what went on with respect to those disputes. They were characterized earlier on as disputes but there doesn't seem to be much dispute today about what went on.

THE COMMISSIONER: I have the same



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concern that you have with respect to this. What I am really worried about is, are you going to find any need to answer it?

MR. ROLAND: Well, I may very well because Miss McIntyre has announced this woman is going to be asked a number of other questions, I think, from what she has told you today.

THE COMMISSIONER: You haven't got to that yet, I take it?

MS. MCINTYRE: No.

MR. ROLAND: There are some other topics.

MS. MCINTYRE: I didn't have a chance.

MR. ROLAND: Once the witness is in the stand, it is sort of free go.

THE COMMISSIONER: As usual, I am trying to -- I think I have got to, if I can just get a promise from Mr. Roland that he wouldn't cross-examine, things might be different, but he won't give me that promise.

Go on now. What else is she going to --

MS. MCINTYRE: Before I go on, sir, I think that counsel for Phyllis Trayner and Susan Nelles support the calling of this witness on this



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issue.

MR. BROWN: I have spoken to Miss McIntyre just now dealing with the areas - there are some areas to which I have certainly no objection and, indeed, would support Miss McIntyre. But, in fairness, I think those are more general. For example, she discussed the pre-drawing of medication and, as a general practice, that might be useful to have some expert opinion on the frequency and the propriety of that. As well, a team leader performing certain functions for a baby who was assigned to care by another nurse.

In respect to the other detailed matters, we are in sort of a difficult position. Most of those have been dealt with extensively on cross-examination and I don't know whether general evidence from an expert would be of assistance.

THE COMMISSIONER: The problem is this, Mr. Brown, that I can dismiss Miss McIntyre's application on the simple ground that it is not in her interest. It becomes a different problem if you and counsel for Phyllis Trayner then decide you are supporting bringing this application, because it may well be in your interest, whereas it is not in her interest. This is the problem.



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MR. BROWN: It is my understanding that Dr. McGee will be giving evidence on certain general nursing practices.

THE COMMISSIONER: Yes.

MR. BROWN: To that extent, I would support the application because I think it will affect nurses in general. I candidly do have some difficulty with respect to a few of the particular ones, the Code 23 and Code 25 dispute - I don't see any assistance. I felt that was dealt with in cross-examination. The signing by Miss Nelles of the gentamicin for Allana Miller. Miss Nelles candidly admitted that was a mistake, and in my mind that is the end of it. Miss Nelles gave her observations to checking the gentamicin, and I don't think that affects us really. And the others, I don't think really affect us.

As I say, there are two issues on which I would certainly lend my support in terms of general practices.

THE COMMISSIONER: And which are those?

MR. BROWN: The pre-drawing of medication prior to an arrest - although, again, there is no evidence that Miss Nelles did it.

THE COMMISSIONER: What else do you



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support?

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MR. BROWN: The team leader performing certain functions in respect of a baby assigned to another nurse.

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THE COMMISSIONER: I thought we had that ad nauseum.

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MR. BROWN: Again, that is sort of a general matter and I would support that.

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THE COMMISSIONER: Why do you support it? I think we have had enough of it already. Is there more? What more would you -- if you were left to your own devices, would you call a witness on any of these issues?

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MR. BROWN: If I were left to my own devices, we do not intend to call any witness in respect of anything done by Miss Nelles.

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THE COMMISSIONER: Yes. All right.

MR. BROWN: Now, my friend, I think, has submissions on two other matters, two other areas, but perhaps I anticipate her.

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THE COMMISSIONER: Yes. Who is your friend? Is that Miss McIntyre?

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MR. BROWN: It is my friend, Miss McIntyre.

THE COMMISSIONER: I'm sorry, I am not



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suggesting that the others are not your friends, but it is just a general term that can lead to confusion.

MR. BROWN: I think that is a different matter that really doesn't affect us. I don't have any submissions.

THE COMMISSIONER: Yes. All right.

Miss Rae, can I ask you about matters that Miss McIntyre has reffered to so far. Are you supporting any or all of them?

MS. RAE: I would be prepared to support all of them purely from the point of view that I agree with her that there has been a sort of flavour given to some of the actions that have been described suggesting something untoward or inappropriate. The only reason we would suggest that you should hear this would be that it may be of assistance to you, Mr. Commissioner, in assessing that evidence in the context of evidence of good nursing practices.

THE COMMISSIONER: Left to your own devices, would you call it?

MS. RAE: No.

THE COMMISSIONER: Yes. All right.

Would you go on with the rest of it?

MS. MCINTYRE: Yes, sir. The second area that we wish to call this witness on is with



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respect to medication errors. There has been considerable evidence to date on medication errors, and one possible cause of death with respect to some of the children is medication errors.

THE COMMISSIONER: The cause of death, how is it in your interest, because all it would do, if you are going to establish that there are medication errors, it will reflect, as I would see, upon your clients without helping.

MS. McINTYRE: Okay, sir, I was going to deal with that.

THE COMMISSIONER: All right. Thank you.

MS. McINTYRE: While I say there is a possibility, it is probably with respect to four of the 28 that we are talking, the possibility of four medication errors in thousands of medications that are given.

THE COMMISSIONER: Remember your clients where no one is under suspicion now; none of your clients ever were.

MS. McINTYRE: That is very true, sir. We certainly do not want to suggest that nurses generally, or any of those we represent, are responsible for any medication errors. However, the possibility



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HH13 2 has been raised and we propose to call Dr. McGee
3 to give --

4 THE COMMISSIONER: What will she
5 prove? She will prove there are many errors? Is that
6 it?

7 MS. MCINTYRE: She, herself, has
8 done primary research in the area of medication
9 errors identifying the source of such errors as well
10 as she can give evidence on how errors can be
11 prevented.
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THE COMMISSIONER: All right, that's fine. Why is that in your interest?

MS. McINTYRE: Because we wish to establish, Sir, that medication errors to the extent that they take place are not the fault of nurses but are a systemic problem, and that certainly is in our interest.

THE COMMISSIONER: You mean it is in your interest --

MS. McINTYRE: To establish that medication errors to the extent they occur is not the fault of nurses but is a systemic problem.

THE COMMISSIONER: Well, you realize of course that I can't say, no matter who was responsible for it, I can't determine that.

MS. McINTYRE: Well, that sir is a matter of argument I think.

THE COMMISSIONER: Well, it is a matter of argument but you lost.

MR. YOUNG: Ms. McIntyre won, that's right.

THE COMMISSIONER: Ms. McIntyre won yes, that's right.

MS. McINTYRE: I'm sorry, sir, I didn't realize that you were referring to the naming of name



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2 issue.

3 THE COMMISSIONER: Well, that's the
4 only thing. You say it's not the fault of nurses.
5 If I can't name an individual nurse, I can't name all
6 of the nurses, can I?

7 MS. MCINTYRE: Well surely, sir, that
8 if you are dealing in the area of recommendations,
9 for example, that problems in a system giving rise
10 to medication errors is something of interest
11 to you and it is certainly in our interest, since
12 a spectre of medication errors has been raised to
13 deflect any responsibility away from the nurses on
14 that issue.

15 THE COMMISSIONER: But I'm not allowed
16 to deal with it, I am not allowed to deal with it,
17 all right, okay. Next thing that you would like to
18 say?

19 MS. MCINTYRE: The third area is the
20 area that I think is our least convincing argument.
21 I should have put ~~that~~ in the ~~middle~~ shouldn't I?

22 THE COMMISSIONER: Is this the one
23 that drives Mr. Roland up the wall, is that it.

24 MR. ROLAND: I'm delighted at the
25 introduction to the argument.

MS. MCINTYRE: I'm not sure if it drives



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2 him up the wall. Perhaps it does.

3 MR. LAMEK: I will watch.

4 MS. CRONK: Do you care?

5 MS. McINTYRE: Dr. McGee is an expert
6 in a concept referred to as Quality Assurance
7 Program, a system to monitor patient care in a Hospital
8 setting. She can offer valuable insight into
9 institutional mechanisms which would be more responsive
10 to this series of baby deaths occurring on Wards 4A
and 4B.

11 Sir, this would be relevant not to the
12 issue of determining cause of death. However, it may
13 be relevant in the area of making recommendations.
14 That, sir, as you acknowledged yesterday, is part of
your mandate.

15 You also referred to the Dubin Report
16 and suggested that that in your view probably pretty
17 well covered the area of recommendations. However,
18 while the Dubin Report does mention quality assurance
19 in its recommendations, specifically number 42, it is
20 with reference to nursing care only.

21 In fact, quality assurance programs is
institutional wide and in some respects --

22 THE COMMISSIONER: Do you know what an
23 enormous issue this would be. I have to be reasonable
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at this point.

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MS. McINTYRE: I appreciate your

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concern.

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THE COMMISSIONER: The only thing

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I am really concerned with, and I am going to have a
terrible fight with Mr. Labow about this, but the

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only thing I am really concerned with is, was there

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or was there not a massive overdose of digoxin in

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any one or all of the 36 babies we are inquiring about?

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Mr. Justice Dubin has spent a great deal

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of time and produce a magnificent report on the questions of

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how we deal with this sort of thing, how we stop it

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from occurring. He went into it and he had four

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able assistants and they produced, and as far as
I can make out, all of those recommendations were

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accepted and are put in, and you are asking me to

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go over this ground again and open it up.

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MS. McINTYRE: I appreciate the problem,

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sir.

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THE COMMISSIONER: Mr. Roland brings

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down 412 experts to say this isn't the thing to do and

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I listen to it all and I really don't intend to do
anything about it.

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MS. McINTYRE: Well, I suspect Mr. Roland

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wouldn't do that in fact in that I think the Hospital

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2 has undertaken such a program already.

3 THE COMMISSIONER: Do you mean to say
4 it is already done, is it?

5 MS. McINTYRE: Well, I'm not sure
6 actually, not being counsel to the Hospital, but it
7 is being considered I think.

8 MR. ROLAND: Ms. McIntyre shows that
9 the illadvisedness of even getting into this issue
10 because if we are talking about historic events,
11 events that occurred three years ago and that is what
12 you are to inquire into and the Hospital as a result
13 of the Dubin Report and other things has gone on,
14 life has continued and it is administering its
15 institution in the best way it can and it has made
16 decisions about that for a whole host of reasons
17 the way it operates.

18 If we get into this kind of discussion
19 through some witness we are going to have to go back
20 into the whole administration of the Hospital, not
21 just because she wants it for recommendations, not just
22 back then, but how it is administered today. All that
23 has nothing to do, with great respect to your mandate.

24 MS. McINTYRE: Well, I appreciate that
25 concern, Sir, and I realize that you wish to end this
process sooner rather than later. I think we can



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understand if you don't want to get into the issue.

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However, I think that is not as

complicated as Mr. Roland suggests and I think certainly
the public would appreciate any recommendations
you could make to prevent this sort of thing, whatever
it was, occurring in the future.

THE COMMISSIONER: Yes, all right,
thank you.

Mr. Lamek, do you want to say anything?
Well, first of all, Mr. Roland, you have been up
and down several times is there anything more that
you want to say?

MR. ROLAND: Well, with respect to the
quality assistance program --

MS. MCINTYRE: Quality assurance program.

MR. ROLAND: The quality assurance
program, I don't think I could say much more except
that it is not less complicated, I think it is
probably much more complicated than I had indicated.

With respect to the medication errors,
as you have pointed out, sir, your mandate is to
determine how these babies died. Now, Ms. McIntyre
has told us that she is going to direct the evidence
to four particular babies but this witness as I
understand it, wasn't at the Hospital at the time and



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probably --

MS. McINTYRE: No, I didn't say that.
If I did say it I didn't intend to say it.

MR. ROLAND: Well, you indicated, what
Ms. McIntyre indicated was that medication error was
a possible cause of death she thought with respect
to four particular babies, that's what I got in my-
notes.

MS. McINTYRE: That's correct, but I
didn't say I was intending to direct the evidence of
this witness towards those four babies.

THE COMMISSIONER: No, I understood
you to say the witness was going to show it was
systemic and not the fault of the nurses.

MS. McINTYRE: Yes.

MR. ROLAND: Well, that makes my
point. I mean, if the witness is going to direct
herself to the four particular babies and try and
interpret the evidence in some fashion that would
be able to make an argument or convince you that
error rather than some deliberate overdose was the
cause of death, or the process of which those
particular four babies received digoxin then it might
be of some use. But to talk about it in the abstract
as something that is systemic rather than the cause



II-8

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2 of nurses(1) it is not helpful to you at all in deciding
3 how those four babies or, indeed, how the 36 babies
4 died because you have to look at each particular
5 baby and the evidence that you have with respect to
6 each particular baby.

7 You already have before you, thanks
8 to a large extent to the evidence I lead through
9 Dr. Spielberg, that there is systemically errors in
10 these institutions. That evidence isn't something
11 that will come new to you and that is a sort of
12 gloss on errors. You already have that gloss.
13 What your function is is to look at, with great respect,
14 each particular infant and determine with respect to
15 each particular infant if there is a real possibility
16 of error in any one of those cases.

17 Now, this witness can't help you or
18 assistant you with respect to any of that. You already
19 have the gloss about the errors that occur regularly
20 in Hospitals. The studies have been put in, the
21 Americans studies have been put in, they seem to be
22 accepted as a gloss by everybody here. This witness
23 will not advance the evidence one bit.

24 I am not particularly troubled about
25 her giving that kind of evidence but it is not going
to advance the work of this Commission one small step



II-9

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in deciding how any one of these particular babies came to their deaths.

The other two areas that Ms McIntyre puts into her first category are two subject matters; nurses predrawing medications prior to arrests and whether that is something that is suspicious or, alternatively, whether that is something that is done as a regular routine or something that is not in the category of being suspicious. We have some evidence with respect to that, some nursing witnesses that that was done before or in anticipation of some arrests of some of the babies.

The questioning of that I must say raised the doubt, not the answers but the questions that there may be some suspicion about that. The evidence that we have had, if you review the evidence is that there is nothing suspicious. No one has suggesting that that in evidence, anybody that has come here as a medical witness has suggested that that is suspicious.

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Miss McIntyre I presume intends to call this witness to say it isn't suspicious. She will be rebutting not any evidence that has been put in but some suggestion in a question that has no foundation in the evidence. So, it may be of very marginal importance but I think it not sufficient to call a witness because I say in the record that you have today there is no evidence that that in itself is suspicious.

I wouldn't be advancing any argument that it is suspicious. In fact, I understand from my clients that it isn't suspicious that it occurs from time to time and it may be treated as good nursing practice, but I don't think it has ever really been an issue. It has been raised as a question. No witness has suggested in response to the question that it is suspicious.

The last item that Miss McIntyre deals with in her first category has something to do with team leaders looking after patients of their team members. I don't understand what evidence is going to be led about that. There doesn't seem to be any dispute about the fact that that occurs and breaks and so on and I for the life of me can't understand what again is in dispute in that area. Maybe



II.2.2.

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2 Miss McIntyre could help us on that but I don't
3 understand what the dispute is there.

4 THE COMMISSIONER: Yes, all right,
5 thank you. Mr. Lamek, have you anything to say?

6 MR. LAMEK: Very little to add, sir.
7 Just one thing, I have tried to say this on a number
8 of occasions in the past. I have heard suggestions
9 for months now that your report is going to change
10 the face of nursing and nursing practices throughout
11 this province. That has always come to me as something
12 of a surprise, as no doubt it has to you, sir. I
13 don't understand this Commission to be concerned
14 with general nursing matters, with the nursing
15 profession in general, or with nursing practices in
16 any general way.

17 To the extent that anything that Dr. McGee
18 has to say might bear upon those matters, I really
19 don't see that they will be of assistance to you, sir,
20 in the matters that you have to consider.

21 So far as the particular matters about
22 which Dr. McGee will give evidence, I doubt what
23 Mr. Roland has said about particular matters as far
24 as those involving Miss Nelles and Mrs. Traynor are
25 concerned, we have heard from them, and importantly
we have heard today from their Counsel and neither of



II.2.3

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2 them, as I understand it, would call Dr. McGee or
3 anyone comparable to Dr. McGee to give such evidence,
4 so, there is some suggestion as to the value that
5 they place upon the kind of thing that is suggested.

6 So far as drug errors are concerned
7 I can say only two things. One, the question is
8 not whether the drug errors are systemic or if they occurred
9 at whose hands they occurred. I have no doubt that no
10 drug error be systemic, every now and again one of
11 them occurs through the damn foolishness of an
12 individual and that's not a systemic device.

13 The question is, did any one of these
14 children, or more of them, die as a result of drug
15 error and as to that, with the greatest of respect,
16 no one who comes to us talking about drug errors in
17 general can be of any assistance to you.

18 The quality control, I adopt what
19 Mr. Roland has said. I confess, I don't see the
20 utility to you of the evidence she purposes.
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THE COMMISSIONER: Before I come back to Miss McIntyre, does anybody else have any contributions to make to this argument?

MR. TOBIAS: I am just packing up by briefcase.

THE COMMISSIONER: All right. All right Miss McIntyre.

MS. McINTYRE: Yes, sir. With respect to Mr. Roland's comments I understand on the medication error that he is essentially saying why should we call the evidence when he has already called the evidence.

THE COMMISSIONER: The thing that concerns me is that the medication errors, the evidence that Dr. McGee is going to give is that it is not the fault of the nurses, is that right?

MS. McINTYRE: No, that is the reason why it is relevant to our interest. Her evidence can help you with respect to the possibility of medication errors. Of course, there is no evidence as to whether or not there was a medication error.

THE COMMISSIONER: We have masses evidence on that.

MS. McINTYRE: Pardon?

THE COMMISSIONER: We have masses



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of evidence on medical errors.

MS. McINTYRE: The possibility of medication errors is clearly relevant then, because --

THE COMMISSIONER: We have had it. Why do we want anymore? Why do we want anymore? Here we have had the percentages and all kinds of charts on this sort of thing and articles on them. We have had people stating. We have had all of this and you want some more to tell us. What I want to have is have you got some evidence that will help me in knowing whether or not anyone of these children died of an accidental overdose of digoxin.

MS. McINTYRE: Yes and part of that formula, sir, is the possibility of medication error and in my submission Dr. McGee can help you on that because she has done primary research on it and can contribute from a nursing point of view as to the possibility of medication error.

THE COMMISSIONER: Yes, all right. Anything else?

MS. McINTYRE: No, I think that is all sir.

Oh, there is one other matter. We had asked that a number of doctors be called and I understand that after lunch it was announced that



JJ3

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2 Dr. Jedeikin was going to be called or Dr. Kantak,
3 I'm sorry. We had also asked that Dr. Ning be called
4 with respect to Pacsai and Dr. Soulioti be called
5 with respect to Miller and Dr. Jedeikin be called.
6 I understand there are still efforts being made to
7 try to reach Dr. Jedeikin.

8 THE COMMISSIONER: You have heard Mr.
9 Lamek saying that we weren't going to do it.

10 MS. MCINTYRE: I'm sorry, I wasn't
11 here, sir. I didn't hear that.

12 THE COMMISSIONER: I guess Ms. Kitley
13 was here. I guess she is keeping all of this
14 information to herself. There is going to be a fight
15 at the next departmental meeting I can see.

16 Well, we are not calling anybody and
17 I thought that that had been -- certainly I guess you
18 weren't consulting with Miss McIntyre on this
19 decision not to call Dr. Jedeikin. If you want them
20 for some reason you have to tell us why?

21 MS. CRONK: I'm sorry, sir, just to
22 explain that from our perspective, Miss McIntyre
23 quite correctly, I suggest to you that a list of
24 further requested witnesses was provided by her firm.
25 The on going interviews and discussions have involved
parents counselling to a certain respect in Miss



JJ4

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2 McIntyre's firm. I can tell you, sir, with respect
3 to most of the doctors, physicians named by her,
4 their whereabouts are either currently unknown or
5 have been most difficult to reach. Others we have
6 contacted for the purposes of accomodating
7 parent's counsel. I can tell you further, sir, it
8 is our position, unless Miss McIntyre can outline
9 an interest in particular for her clients for calling
10 these witnesses, it is not our intention to explore it
11 further.

11 MS. MCINTYRE: Well, sir, we had
12 detailed in a letter to Commission Counsel particular
13 questions that we wanted asked of these witnesses but
14 perhaps I can take it up further with Miss Cronk. It
15 was our position that Commission Counsel should call
16 them and not that we wanted to call them ourselves.

16 THE COMMISSIONER: You weren't
17 successful in persuading them, so if you don't want
18 to call them that is the end of it.

19 MS. MCINTYRE: Thank you sir.

20 THE COMMISSIONER: You tried.

21 MS. MCINTYRE: Thank you.

22 THE COMMISSIONER: You get full marks
23 for that. If you don't want to try them yourself
24 -- the only one we are concerned about is Dr. McGee.
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2 MS. McINTYRE: Yes, and perhaps I can
3 reserve on that question particularly since Dr.
4 Kantak is being called.

5 THE COMMISSIONER: Yes. I don't
6 want to decide this issue tonight, and I don't know
7 whether we are going to be here on Monday or not.

8 MS. CRONK: I'm sorry, to help you
9 with that, Miss Chown has been kind enough to confirm
10 that Dr. Kantak will be available on Monday, but I
11 should add at this point that he has had very little
12 notice of the request that he attend and some very
13 extraordinary arrangements have been made in Texas
14 to permit his attendance on Monday. He is most
15 concerned as are his colleagues, that he be allowed
16 to return Monday evening to Texas and under the
17 circumstances I have been requested to ask you and
18 agree and recommend to you that we start at 9:30 on
19 Monday morning to insure that the Doctor is free to
20 leave at the end of the day and that there is no risk
21 that his evidence will not be completed Monday at the
22 end of the day.

23 THE COMMISSIONER: I guess I will get
24 out the stop watch.

25 MS. CRONK: Would it be acceptable
to you, sir, if we started at 9:30 to accomodate the



JJ6

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2 Doctor?

3 THE COMMISSIONER: I will agree with
4 that if you will agree to be finished with him by
5 11:00 o'clock. Can you finish him in an hour and
6 a half? If you can't do that there is no possibility
7 of asking everybody else.

8 MS. CRONK: To be perfectly honest sir,
9 at this stage I have no idea how long the examination
10 in chief will be because I haven't had sufficient
11 time to consider it further.

12 THE COMMISSIONER: Then I suggest you
13 put the important questions at the beginning because
14 you may not have an opportunity to ask the less
15 important questions.

16 MS. CRONK: I would hate to break with
17 complete tradition, but I would be glad to try.

18 THE COMMISSIONER: Some where around
19 11:00 o'clock I will be suggesting that you sit down
20 and let other people have an opportunity so obviously
21 there is no problem about Monday. I will resolve
22 this thing.

23 MR. BROWN: I was wondering whether Miss
24 Cronk would perhaps advise us of the areas Dr. Kantak
25 is expected to testify.

THE COMMISSIONER: Can you do that?



JJ7

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2 MS. CRONK: For the purpose of
3 examination in chief, the Doctor will be giving
4 evidence with respect to Kevin Pacsai, Kristin Inwood
5 and Justin Cook.

6 THE COMMISSIONER: Yes. Now I think
7 that whatever happens with regard to Dr. McGee there
8 aren't obviously very many more witnesses and I am
9 going to suggest to everyone that we have argument
on I think it is the 1st Monday in June.

10 MR. LAMEK: June 4th.

11 THE COMMISSIONER: The 4th.

12 MR. LAMEK: Yes.

13 THE COMMISSIONER: We will start in the
14 ordinary course with Mr. Lamek and, as I say, go through
15 but I really just want to say this so that you will
16 prepare accordingly. I think it will take probably
17 at least two weeks and we will certainly try to
18 accomodate counsel so that they can be present at the
19 appropriate time and we will go in the same order.
20 It gives you at least two weeks, maybe the
21 better apart of three weeks from now and certainly
two weeks from the end of the evidence to prepare.

22 MR. BROWN: If I might on the record,
23 sir, request that as far as the order of argument
24 there be a slight alteration. We would prefer to
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JJ8

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2 follow after Commission Counsel and the Hospital
3 since a large portion of the argument will be centered
4 on the medical evidence, as to how and by what means
5 these children died.

6 It is my submission those two parties
7 have the resources and perhaps to some extent have
8 a greater interest in leading evidence with respect
9 to all of the children.

10 THE COMMISSIONER: You certainly
11 follow Commission Counsel.

12 MR. BROWN: We would also like to be
13 put after the Hospital. That might well shorten our
14 submissions. If we were to go after Commission
15 Counsel we might be put in a different position,
16 whereby we would feel it is necessary to review a
17 host of medical evidence with respect to a large
18 number of children. If we follow the Hospital I think
19 I could assure you our submission would be briefer.

20 THE COMMISSIONER: That certainly is
21 a very enticing argument.

22 MS. RAE: I would like to support
23 that suggestion and I would also ask if it could
24 be considered perhaps that the Attorney General
25 could go before.

THE COMMISSIONER: You just wanted
a position. Remember, we go down the line one way



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and come back up the other way so you get an advantage one way or the other. Perhaps Mr. Roland, would you like to come second?

MR. ROLAND: The resources sitting to my left is alarmed at the prospect of having to go second.

THE COMMISSIONER: I see.

MR. ROLAND: The resources in this hearing are the transcripts, the exhibits and the people that are there to assist you in preparing the evidence but I don't see any particular problem. I think we could go second if everybody wants us to do that.

THE COMMISSIONER: You would come back and be second last on --

MR. ROLAND: We have no problem with that. The one thing that I think that should be addressed or considered is having some, at least a short period of time, to digest and assimilate Commission Counsel's submissions and if we went sort of immediately the next minute or day following it may be somewhat difficult because there may be many things that we want to consider and agree with and others we will want to take exception with. We just don't know.



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2 I presume written argument will be
3 in the form of a transcript.

JJ10 4 THE COMMISSIONER: Yes. I have asked
5 that the parents, not to write me a book but just
6 sort of a summary of their position with respect to
7 each child, which would be available to me and
8 will be available to everybody else, because that is
9 something that we can constantly refer to. It doesn't
10 prevent them from arguing the question. Written
11 argument you can supply or not as you like. Some
12 Counsel want to have it and ~~some~~ don't.

12 It is essential, at least I found, and
13 I don't want to be disrespectful to a lot of old
14 dead Judges, but you have to have oral argument in order
15 to find out which way he is thinking and deal with it.
16 Therefore written argument just isn't good enough for
17 something like this.

17 If you want to supplement your argument
18 with written argument that is fine. There is nothing
19 wrong with that and I would be delighted to have it.
20 We will also have the transcript as well.

21 MR. ROLAND: That is right.
22 The transcript is what I was referring to with the
23 great advantage we have in having the argument
24 reduced to writing very quickly. But I think
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JJ11

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2 especially if we are going to go second and we
3 have no difficulty with that, we would like some time,
4 a couple of days perhaps, at least to assimilate
5 Commission Counsel's argument and more effectively
6 respond to it, because I think it will effect, to a
7 very large extent, the approach we take in our argument.
8 I don't say particularly a lot of time, but it may
9 be a day or two would be very useful there. I don't
10 know how long Commission Counsel will be, but I
11 suspect many days.

12 THE COMMISSIONER: I suspect he will
13 be a while -- they will be awhile, because all
14 Counsel on the team can argue, as long as it will
15 be kind enough to divide the territory. I don't want
16 them all arguing the same point.

17 MR. ROLAND: It may be ~~at the end~~ of
18 Commission Counsel's argument that we can say that
19 we agree with everything and disagree with nothing
20 and be very short. I suspect that that won't be.

21 THE COMMISSIONER: Won't be so.

22 MR. ROLAND: Won't be so.

23 THE COMMISSIONER: There you are,
24 There is a warning for you. At any rate all I am
25 really doing at the moment is telling you that is
when we start. Those will be some of the rules.



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2 We will refine them a great deal more as we go along.

3 MS. KITELY: Before we quit for the
4 day -- we have changed the guard a lot today. We
5 have Dr. McGee standing by. She is from Ottawa and
6 we can't get her here at a moments' notice. I
7 appreciate you don't want to have any lapses between
8 witnesses --

9 THE COMMISSIONER: Obviously I wonder
10 if you could ask her, say that she will or will not
11 be called. Tuesday is available and we have nothing
12 else for Tuesday. Ask her if she will --

13 MS. KITELY: She is available on
14 Tuesday, sir. I can tell you that now.

15 THE COMMISSIONER: All right. Would you
16 keep her available on Tuesday. I am going to look at this
17 transcript and I am going to consider the matter and
18 I'm going to probably -- I don't want to be held
19 to this, but probably allow her to come and allow you
20 or whoever is going to examine her, to ask things,
21 but there is going to be some rules and there are
22 going to be some subjects that she won't deal with.
23 I will try and let you know on Monday what those
24 rules will be so you can prepare accordingly.

25 I assume that you have prepared her
on all of these matters already, have you not?

MS. KITELY: Virtually yes.



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THE COMMISSIONER: So that it won't hurt, all you have to do is have a blue pencil to strike out some of them.

MS. KITELY: Unless you want to add something to the list.

THE COMMISSIONER: I won't think up anything else.

MS. KITELY: Well, it is true we do have an assortment of matters but we do need a little lead time to have her.

THE COMMISSIONER: Get her into a hotel room for Monday night and I will try and tell you by Monday afternoon exactly what I am going to permit, I may well by that time say there are some aspects that you may have trouble with when the question is raised.

MS. KITELY: All right. Thank you, sir.

THE COMMISSIONER: All right. Anything else? I think we had better go while we still can. Until 9:30 then on Monday morning in Courtroom No. 1 on the 21st floor.

--- whereupon the hearing was adjourned at 5:05 p.m. until Monday, the 14th day of May 1984, at 9:30 a.m. in Courtroom No. 1, 21st floor, 180 Dundas Street West.

